

PART 262—STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE

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APPENDIX TO PART 262—UNIFORM HAZARDOUS WASTE MANIFEST AND INSTRUCTIONS (EPA FORMS 8700–22 AND 8700–22A AND THEIR INSTRUCTIONS)

AUTHORITY: 42 U.S.C 6906, 6912, 6922–6925, 6937, and 6938.

SOURCE: 45 FR 33142, May 19, 1980, unless otherwise noted.

Subpart A—General

§ 262.10 Purpose, scope, and applicability.

- (a) These regulations establish standards for generators of hazardous waste.
(b) 40 CFR 261.5(c) and (d) must be used to determine the applicability of provisions of this part that are dependent on calculations of the quantity of hazardous waste generated per month.
(c) A generator who treats, stores, or disposes of hazardous waste on-site must only comply with the following sections of this part with respect to that waste: Section 262.11 for determining whether or not he has a hazardous waste, § 262.12 for obtaining an EPA identification number, § 262.34 for accumulation of hazardous waste, § 262.40 (c) and (d) for recordkeeping,

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§ 262.43 for additional reporting, and if applicable, § 262.70 for farmers.

(d) Any person who exports or imports hazardous waste subject to the Federal manifesting requirements of part 262, or subject to the universal waste management standards of 40 CFR Part 273, or subject to State requirements analogous to 40 CFR Part 273, to or from the countries listed in § 262.58(a)(1) for recovery must comply with subpart H of this part.

(e) Any person who imports hazardous waste into the United States must comply with the standards applicable to generators established in this part.

(f) A farmer who generates waste pesticides which are hazardous waste and who complies with all of the requirements of § 262.70 is not required to comply with other standards in this part or 40 CFR parts 270, 264, 265, or 268 with respect to such pesticides.

(g) A person who generates a hazardous waste as defined by 40 CFR part 261 is subject to the compliance requirements and penalties prescribed in section 3008 of the Act if he does not comply with the requirements of this part.

(h) An owner or operator who initiates a shipment of hazardous waste

from a treatment, storage, or disposal facility must comply with the generator standards established in this part.

(i) Persons responding to an explosives or munitions emergency in accordance with 40 CFR 264.1(g)(8)(i)(D) or (iv) or 265.1(c)(11)(i)(D) or (iv), and 270.1(c)(3)(i)(D) or (iii) are not required to comply with the standards of this part.

(j) (1) Universities that are participating in the Laboratory XL project are the University of Massachusetts Boston in Boston, Massachusetts, Boston College in Chestnut Hill, Massachusetts, and the University of Vermont in Burlington, Vermont ("Universities"). The Universities generate laboratory wastes (as defined in § 262.102), some of which will be hazardous wastes. As long as the Universities comply with all the requirements of subpart J of this part the Universities' laboratories that are participating in the University Laboratories XL Project as identified in Table 1 of this section, are not subject to the provisions of §§ 262.11, 262.34(c), 40 CFR Parts 264 and 265, and the permit requirements of 40 CFR Part 270 with respect to said laboratory wastes.

TABLE 1—LABORATORY XL PROJECT PARTICIPANT INFORMATION

Institution	Approx. number of labs	Departments participating	Location of current hazardous waste accumulation areas
Boston College, Chestnut Hill, MA.	120	Chemistry, Biology, Geology, Physics, Psychology.	Merkert Chemistry Building, 2609 Beacon St., Boston, MA. Higgins Building, 140 Commonwealth Ave., Chestnut Hill, MA.
University of Massachusetts Boston, Boston, MA.	150	Chemistry, Biology, Psychology, Anthropology, Geology and Earth Sciences, and Environmental, Coastal and Ocean Sciences.	Science Building (Bldg. #080); McCormack Building (Bldg. #020); and Wheatley Building (Bldg. #010), 100 Morrissey Blvd., Boston, MA.
University of Vermont, Burlington, VT.	400	Colleges of: Agriculture and Life Sciences, Arts and Sciences, Medicine, and Engineering and Mathematics; and Schools of: Nursing, Allied Health Sciences, and Natural Resources.	Given Bunker, 89 Beaumont Ave., Burlington, VT.

(2) Each University shall have the right to change its respective departments or the on-site location of its hazardous waste accumulation areas listed in Table 1 of this section upon written notice to the Regional Administrator for EPA-Region I and the appropriate

state agency. Such written notice will be provided at least ten days prior to the effective date of any such changes.

(k) Generators in the Commonwealth of Massachusetts may comply with the State regulations regarding Class A recyclable materials in 310 C.M.R. 30.200,

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when authorized by the EPA under 40 CFR part 271, with respect to those recyclable materials and matters covered by the authorization, instead of complying with the hazardous waste accumulation requirements of § 262.34, the reporting requirements of § 262.41, the storage facility operator requirements of 40 CFR parts 264 and 265 and the permitting requirements of 40 CFR part 270. Such generators must also comply with any other applicable requirements, including any applicable authorized State regulations governing hazardous wastes not being recycled and any applicable Federal requirements which are being directly implemented by the EPA within Massachusetts pursuant to the Hazardous and Solid Waste Amendments of 1984.

NOTE 1: The provisions of § 262.34 are applicable to the on-site accumulation of hazardous waste by generators. Therefore, the provisions of § 262.34 only apply to owners or operators who are shipping hazardous waste which they generated at that facility.

NOTE 2: A generator who treats, stores, or disposes of hazardous waste on-site must comply with the applicable standards and permit requirements set forth in 40 CFR parts 264, 265, 266, 268, and 270.

[45 FR 33142, May 19, 1980, as amended at 45 FR 86970, Dec. 31, 1980; 47 FR 1251, Jan. 11, 1982; 48 FR 14294, Apr. 1, 1983; 53 FR 27164, July 19, 1988; 56 FR 3877, Jan. 31, 1991; 60 FR 25541, May 11, 1995; 61 FR 16309, Apr. 12, 1996; 62 FR 6651, Feb. 12, 1997; 64 FR 52392, Sept. 28, 1999; 69 FR 11813, Mar. 12, 2004]

§ 262.11 Hazardous waste determination.

A person who generates a solid waste, as defined in 40 CFR 261.2, must determine if that waste is a hazardous waste using the following method:

(a) He should first determine if the waste is excluded from regulation under 40 CFR 261.4.

(b) He must then determine if the waste is listed as a hazardous waste in subpart D of 40 CFR part 261.

NOTE: Even if the waste is listed, the generator still has an opportunity under 40 CFR 260.22 to demonstrate to the Administrator that the waste from his particular facility or operation is not a hazardous waste.

(c) For purposes of compliance with 40 CFR part 268, or if the waste is not listed in subpart D of 40 CFR part 261, the generator must then determine

whether the waste is identified in subpart C of 40 CFR part 261 by either:

(1) Testing the waste according to the methods set forth in subpart C of 40 CFR part 261, or according to an equivalent method approved by the Administrator under 40 CFR 260.21; or

(2) Applying knowledge of the hazard characteristic of the waste in light of the materials or the processes used.

(d) If the waste is determined to be hazardous, the generator must refer to parts 261, 264, 265, 266, 268, and 273 of this chapter for possible exclusions or restrictions pertaining to management of the specific waste.

[45 FR 33142, May 19, 1980, as amended at 45 FR 76624, Nov. 19, 1980; 51 FR 40637, Nov. 7, 1986; 55 FR 22684, June 1, 1990; 56 FR 3877, Jan. 31, 1991; 60 FR 25541, May 11, 1995]

§ 262.12 EPA identification numbers.

(a) A generator must not treat, store, dispose of, transport, or offer for transportation, hazardous waste without having received an EPA identification number from the Administrator.

(b) A generator who has not received an EPA identification number may obtain one by applying to the Administrator using EPA form 8700–12. Upon receiving the request the Administrator will assign an EPA identification number to the generator.

(c) A generator must not offer his hazardous waste to transporters or to treatment, storage, or disposal facilities that have not received an EPA identification number.

Subpart B—The Manifest

§ 262.20 General requirements.

(a) A generator who transports, or offers for transportation, hazardous waste for offsite treatment, storage, or disposal must prepare a Manifest OMB control number 2050–0039 on EPA form 8700–22, and, if necessary, EPA form 8700–22A, according to the instructions included in the appendix to part 262.

(b) A generator must designate on the manifest one facility which is permitted to handle the waste described on the manifest.

(c) A generator may also designate on the manifest one alternate facility which is permitted to handle his waste

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in the event an emergency prevents delivery of the waste to the primary designated facility.

(d) If the transporter is unable to deliver the hazardous waste to the designated facility or the alternate facility, the generator must either designate another facility or instruct the transporter to return the waste.

(e) The requirements of this subpart do not apply to hazardous waste produced by generators of greater than 100 kg but less than 1000 kg in a calendar month where:

(1) The waste is reclaimed under a contractual agreement pursuant to which:

(i) The type of waste and frequency of shipments are specified in the agreement;

(ii) The vehicle used to transport the waste to the recycling facility and to deliver regenerated material back to the generator is owned and operated by the reclaimer of the waste; and

(2) The generator maintains a copy of the reclamation agreement in his files for a period of at least three years after termination or expiration of the agreement.

(f) The requirements of this subpart and § 262.32(b) do not apply to the transport of hazardous wastes on a public or private right-of-way within or along the border of contiguous property under the control of the same person, even if such contiguous property is divided by a public or private right-of-way. Notwithstanding 40 CFR 263.10(a), the generator or transporter must comply with the requirements for transporters set forth in 40 CFR 263.30 and 263.31 in the event of a discharge of hazardous waste on a public or private right-of-way.

[45 FR 33142, May 19, 1980, as amended at 49 FR 10500, Mar. 20, 1984; 51 FR 10175, Mar. 24, 1986; 53 FR 45090, Nov. 8, 1988; 62 FR 6651, Feb. 12, 1997]

§ 262.21 Acquisition of manifests.

(a) If the State to which the shipment is manifested (consignment State) supplies the manifest and requires its use, then the generator must use that manifest.

(b) If the consignment State does not supply the manifest, but the State in which the generator is located (gener-

ator State) supplies the manifest and requires its use, then the generator must use that State's manifest.

(c) If neither the generator State nor the consignment State supplies the manifest, then the generator may obtain the manifest from any source.

[49 FR 10500, Mar. 20, 1984]

§ 262.22 Number of copies.

The manifest consists of at least the number of copies which will provide the generator, each transporter, and the owner or operator of the designated facility with one copy each for their records and another copy to be returned to the generator.

§ 262.23 Use of the manifest.

(a) The generator must:

(1) Sign the manifest certification by hand; and

(2) Obtain the handwritten signature of the initial transporter and date of acceptance on the manifest; and

(3) Retain one copy, in accordance with § 262.40(a).

(b) The generator must give the transporter the remaining copies of the manifest.

(c) For shipments of hazardous waste within the United States solely by water (bulk shipments only), the generator must send three copies of the manifest dated and signed in accordance with this section to the owner or operator of the designated facility or the last water (bulk shipment) transporter to handle the waste in the United States if exported by water. Copies of the manifest are not required for each transporter.

(d) For rail shipments of hazardous waste within the United States which originate at the site of generation, the generator must send at least three copies of the manifest dated and signed in accordance with this section to:

(1) The next non-rail transporter, if any; or

(2) The designated facility if transported solely by rail; or

(3) The last rail transporter to handle the waste in the United States if exported by rail.

(e) For shipments of hazardous waste to a designated facility in an authorized State which has not yet obtained

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authorization to regulate that particular waste as hazardous, the generator must assure that the designated facility agrees to sign and return the manifest to the generator, and that any out-of-state transporter signs and forwards the manifest to the designated facility.

NOTE: See §263.20(e) and (f) for special provisions for rail or water (bulk shipment) transporters.

[45 FR 33142, May 19, 1980, as amended at 45 FR 86973, Dec. 31, 1980; 55 FR 2354, Jan. 23, 1990]

Subpart C—Pre-Transport Requirements

§ 262.30 Packaging.

Before transporting hazardous waste or offering hazardous waste for transportation off-site, a generator must package the waste in accordance with the applicable Department of Transportation regulations on packaging under 49 CFR parts 173, 178, and 179.

§ 262.31 Labeling.

Before transporting or offering hazardous waste for transportation off-site, a generator must label each package in accordance with the applicable Department of Transportation regulations on hazardous materials under 49 CFR part 172.

§ 262.32 Marking.

(a) Before transporting or offering hazardous waste for transportation off-site, a generator must mark each package of hazardous waste in accordance with the applicable Department of Transportation regulations on hazardous materials under 49 CFR part 172;

(b) Before transporting hazardous waste or offering hazardous waste for transportation off-site, a generator must mark each container of 110 gallons or less used in such transportation with the following words and information displayed in accordance with the requirements of 49 CFR 172.304:

HAZARDOUS WASTE—Federal Law Prohibits Improper Disposal. If found, contact the nearest police or public safety authority or the U.S. Environmental Protection Agency.

Generator's Name and Address —————.

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Manifest Document Number —————.

§ 262.33 Placarding.

Before transporting hazardous waste or offering hazardous waste for transportation off-site, a generator must placard or offer the initial transporter the appropriate placards according to Department of Transportation regulations for hazardous materials under 49 CFR part 172, subpart F.

§ 262.34 Accumulation time.

(a) Except as provided in paragraphs (d), (e), and (f) of this section, a generator may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, provided that:

(1) The waste is placed:

(i) In containers and the generator complies with the applicable requirements of subparts I, AA, BB, and CC of 40 CFR part 265; and/or

(ii) In tanks and the generator complies with the applicable requirements of subparts J, AA, BB, and CC of 40 CFR part 265 except §§265.197(c) and 265.200; and/or

(iii) On drip pads and the generator complies with subpart W of 40 CFR part 265 and maintains the following records at the facility:

(A) A description of procedures that will be followed to ensure that all wastes are removed from the drip pad and associated collection system at least once every 90 days; and

(B) Documentation of each waste removal, including the quantity of waste removed from the drip pad and the sump or collection system and the date and time of removal; and/or

(iv) The waste is placed in containment buildings and the generator complies with subpart DD of 40 CFR part 265, has placed its professional engineer certification that the building complies with the design standards specified in 40 CFR 265.1101 in the facility's operating record no later than 60 days after the date of initial operation of the unit. After February 18, 1993, PE certification will be required prior to operation of the unit. The owner or operator shall maintain the following records at the facility:

(A) A written description of procedures to ensure that each waste volume

remains in the unit for no more than 90 days, a written description of the waste generation and management practices for the facility showing that they are consistent with respecting the 90 day limit, and documentation that the procedures are complied with; or

(B) Documentation that the unit is emptied at least once every 90 days.

In addition, such a generator is exempt from all the requirements in subparts G and H of 40 CFR part 265, except for §§ 265.111 and 265.114.

(2) The date upon which each period of accumulation begins is clearly marked and visible for inspection on each container;

(3) While being accumulated on-site, each container and tank is labeled or marked clearly with the words, "Hazardous Waste"; and

(4) The generator complies with the requirements for owners or operators in Subparts C and D in 40 CFR part 265, with § 265.16, and with 40 CFR 268.7(a)(5).

(b) A generator who accumulates hazardous waste for more than 90 days is an operator of a storage facility and is subject to the requirements of 40 CFR parts 264 and 265 and the permit requirements of 40 CFR part 270 unless he has been granted an extension to the 90-day period. Such extension may be granted by EPA if hazardous wastes must remain on-site for longer than 90 days due to unforeseen, temporary, and uncontrollable circumstances. An extension of up to 30 days may be granted at the discretion of the Regional Administrator on a case-by-case basis.

(c)(1) A generator may accumulate as much as 55 gallons of hazardous waste or one quart of acutely hazardous waste listed in § 261.33(e) in containers at or near any point of generation where wastes initially accumulate, which is under the control of the operator of the process generating the waste, without a permit or interim status and without complying with paragraph (a) of this section provided he:

(i) Complies with §§ 265.171, 265.172, and 265.173(a) of this chapter; and

(ii) Marks his containers either with the words "Hazardous Waste" or with other words that identify the contents of the containers.

(2) A generator who accumulates either hazardous waste or acutely hazardous waste listed in § 261.33(e) in excess of the amounts listed in paragraph (c)(1) of this section at or near any point of generation must, with respect to that amount of excess waste, comply within three days with paragraph (a) of this section or other applicable provisions of this chapter. During the three day period the generator must continue to comply with paragraphs (c)(1)(i) through (ii) of this section. The generator must mark the container holding the excess accumulation of hazardous waste with the date the excess amount began accumulating.

(d) A generator who generates greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month may accumulate hazardous waste on-site for 180 days or less without a permit or without having interim status provided that:

(1) The quantity of waste accumulated on-site never exceeds 6000 kilograms;

(2) The generator complies with the requirements of subpart I of part 265 of this chapter, except for §§ 265.176 and 265.178;

(3) The generator complies with the requirements of § 265.201 in subpart J of part 265;

(4) The generator complies with the requirements of paragraphs (a)(2) and (a)(3) of this section, the requirements of subpart C of part 265, the requirements of 40 CFR 268.7(a)(5); and

(5) The generator complies with the following requirements:

(i) At all times there must be at least one employee either on the premises or on call (*i.e.*, available to respond to an emergency by reaching the facility within a short period of time) with the responsibility for coordinating all emergency response measures specified in paragraph (d)(5)(iv) of this section. This employee is the emergency coordinator.

(ii) The generator must post the following information next to the telephone:

(A) The name and telephone number of the emergency coordinator;

(B) Location of fire extinguishers and spill control material, and, if present, fire alarm; and

(C) The telephone number of the fire department, unless the facility has a direct alarm.

(iii) The generator must ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures, relevant to their responsibilities during normal facility operations and emergencies;

(iv) The emergency coordinator or his designee must respond to any emergencies that arise. The applicable responses are as follows:

(A) In the event of a fire, call the fire department or attempt to extinguish it using a fire extinguisher;

(B) In the event of a spill, contain the flow of hazardous waste to the extent possible, and as soon as is practicable, clean up the hazardous waste and any contaminated materials or soil;

(C) In the event of a fire, explosion, or other release which could threaten human health outside the facility or when the generator has knowledge that a spill has reached surface water, the generator must immediately notify the National Response Center (using their 24-hour toll free number 800/424-8802). The report must include the following information:

(1) The name, address, and U.S. EPA Identification Number of the generator;

(2) Date, time, and type of incident (*e.g.*, spill or fire);

(3) Quantity and type of hazardous waste involved in the incident;

(4) Extent of injuries, if any; and

(5) Estimated quantity and disposition of recovered materials, if any.

(e) A generator who generates greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month and who must transport his waste, or offer his waste for transportation, over a distance of 200 miles or more for off-site treatment, storage or disposal may accumulate hazardous waste on-site for 270 days or less without a permit or without having interim status provided that he complies with the requirements of paragraph (d) of this section.

(f) A generator who generates greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month and who accumulates hazardous waste in quantities exceeding 6000 kg or accumulates hazardous

waste for more than 180 days (or for more than 270 days if he must transport his waste, or offer his waste for transportation, over a distance of 200 miles or more) is an operator of a storage facility and is subject to the requirements of 40 CFR parts 264 and 265 and the permit requirements of 40 CFR part 270 unless he has been granted an extension to the 180-day (or 270-day if applicable) period. Such extension may be granted by EPA if hazardous wastes must remain on-site for longer than 180 days (or 270 days if applicable) due to unforeseen, temporary, and uncontrollable circumstances. An extension of up to 30 days may be granted at the discretion of the Regional Administrator on a case-by-case basis.

(g) A generator who generates 1,000 kilograms or greater of hazardous waste per calendar month who also generates wastewater treatment sludges from electroplating operations that meet the listing description for the RCRA hazardous waste code F006, may accumulate F006 waste on-site for more than 90 days, but not more than 180 days without a permit or without having interim status provided that:

(1) The generator has implemented pollution prevention practices that reduce the amount of any hazardous substances, pollutants or contaminants entering F006 or otherwise released to the environment prior to its recycling;

(2) The F006 waste is legitimately recycled through metals recovery;

(3) No more than 20,000 kilograms of F006 waste is accumulated on-site at any one time; and

(4) The F006 waste is managed in accordance with the following:

(i) The F006 waste is placed:

(A) In containers and the generator complies with the applicable requirements of subparts I, AA, BB, and CC of 40 CFR part 265; and/or

(B) In tanks and the generator complies with the applicable requirements of subparts J, AA, BB, and CC of 40 CFR part 265, except §§265.197(c) and 265.200; and/or

(C) In containment buildings and the generator complies with subpart DD of 40 CFR part 265, and has placed its professional engineer certification that the building complies with the design standards specified in 40 CFR 265.1101

in the facility's operating record prior to operation of the unit. The owner or operator must maintain the following records at the facility:

(1) A written description of procedures to ensure that the F006 waste remains in the unit for no more than 180 days, a written description of the waste generation and management practices for the facility showing that they are consistent with the 180-day limit, and documentation that the generator is complying with the procedures; or

(2) *Documentation that the unit is emptied at least once every 180 days.*

(ii) In addition, such a generator is exempt from all the requirements in subparts G and H of 40 CFR part 265, except for §§ 265.111 and 265.114.

(iii) The date upon which each period of accumulation begins is clearly marked and visible for inspection on each container;

(iv) While being accumulated on-site, each container and tank is labeled or marked clearly with the words, "Hazardous Waste;" and

(v) The generator complies with the requirements for owners or operators in subparts C and D in 40 CFR part 265, with 40 CFR 265.16, and with 40 CFR 268.7(a)(5).

(h) A generator who generates 1,000 kilograms or greater of hazardous waste per calendar month who also generates wastewater treatment sludges from electroplating operations that meet the listing description for the RCRA hazardous waste code F006, and who must transport this waste, or offer this waste for transportation, over a distance of 200 miles or more for off-site metals recovery, may accumulate F006 waste on-site for more than 90 days, but not more than 270 days without a permit or without having interim status if the generator complies with the requirements of paragraphs (g)(1) through (g)(4) of this section.

(i) A generator accumulating F006 in accordance with paragraphs (g) and (h) of this section who accumulates F006 waste on-site for more than 180 days (or for more than 270 days if the generator must transport this waste, or offer this waste for transportation, over a distance of 200 miles or more), or who accumulates more than 20,000 kilograms of F006 waste on-site is an oper-

ator of a storage facility and is subject to the requirements of 40 CFR parts 264 and 265 and the permit requirements of 40 CFR part 270 unless the generator has been granted an extension to the 180-day (or 270-day if applicable) period or an exception to the 20,000 kilogram accumulation limit. Such extensions and exceptions may be granted by EPA if F006 waste must remain on-site for longer than 180 days (or 270 days if applicable) or if more than 20,000 kilograms of F006 waste must remain on-site due to unforeseen, temporary, and uncontrollable circumstances. An extension of up to 30 days or an exception to the accumulation limit may be granted at the discretion of the Regional Administrator on a case-by-case basis.

(j) A member of the Performance Track Program who generates 1000 kg or greater of hazardous waste per month (or one kilogram or more of acute hazardous waste) may accumulate hazardous waste on-site without a permit or interim status for an extended period of time, provided that:

(1) The generator accumulates the hazardous waste for no more than 180 days, or for no more than 270 days if the generator must transport the waste (or offer the waste for transport) more than 200 miles from the generating facility; and

(2) The generator first notifies the Regional Administrator and the Director of the authorized State in writing of its intent to begin accumulation of hazardous waste for extended time periods under the provisions of this section. Such advance notice must include:

(i) Name and EPA ID number of the facility, and specification of when the facility will begin accumulation of hazardous wastes for extended periods of time in accordance with this section; and

(ii) A description of the types of hazardous wastes that will be accumulated for extended periods of time, and the units that will be used for such extended accumulation; and

(iii) A Statement that the facility has made all changes to its operations, procedures, including emergency preparedness procedures, and equipment,

including equipment needed for emergency preparedness, that will be necessary to accommodate extended time periods for accumulating hazardous wastes; and

(iv) If the generator intends to accumulate hazardous wastes on-site for up to 270 days, a certification that a facility that is permitted (or operating under interim status) under part 270 of this chapter to receive these wastes is not available within 200 miles of the generating facility; and

(3) The waste is managed in:

(i) Containers, in accordance with the applicable requirements of 40 CFR part 265 subpart I; or

(ii) Tanks, in accordance with the requirements of 40 CFR part 265, subpart J, and § 265.200; or

(iii) Drip pads, in accordance with subpart W of 40 CFR part 265; or

(iv) Containment buildings, in accordance with subpart DD of 40 CFR part 265; and

(4) The quantity of hazardous waste that is accumulated for extended time periods at the facility does not exceed 30,000 kg; and

(5) The generator maintains the following records at the facility for each unit used for extended accumulation times:

(i) A written description of procedures to ensure that each waste volume remains in the unit for no more than 180 days (or 270 days, as applicable), a description of the waste generation and management practices at the facility showing that they are consistent with the extended accumulation time limit, and documentation that the procedures are complied with; or

(ii) Documentation that the unit is emptied at least once every 180 days (or 270 days, if applicable); and

(6) Each container or tank that is used for extended accumulation time periods is labeled or marked clearly with the words “Hazardous Waste,” and for each container the date upon which each period of accumulation begins is clearly marked and visible for inspection; and

(7) The generator complies with the requirements for owners and operators in 40 CFR part 265, with § 265.16, and with § 268.7(a)(5). In addition, such a generator is exempt from all the re-

quirements in subparts G and H of part 265, except for §§ 265.111 and 265.114; and

(8) The generator has implemented pollution prevention practices that reduce the amount of any hazardous substances, pollutants, or contaminants released to the environment prior to its recycling, treatment, or disposal; and

(9) The generator includes the following with its Performance Track Annual Performance Report, which must be submitted to the Regional Administrator and the Director of the authorized State:

(i) Information on the total quantity of each hazardous waste generated at the facility that has been managed in the previous year according to extended accumulation time periods; and

(ii) Information for the previous year on the number of off-site shipments of hazardous wastes generated at the facility, the types and locations of destination facilities, how the wastes were managed at the destination facilities (e.g., recycling, treatment, storage, or disposal), and what changes in on-site or off-site waste management practices have occurred as a result of extended accumulation times or other pollution prevention provisions of this section; and

(iii) Information for the previous year on any hazardous waste spills or accidents occurring at extended accumulation units at the facility, or during off-site transport of accumulated wastes; and

(iv) If the generator intends to accumulate hazardous wastes on-site for up to 270 days, a certification that a facility that is permitted (or operating under interim status) under part 270 of this chapter to receive these wastes is not available within 200 miles of the generating facility; and

(k) If hazardous wastes must remain on-site at a Performance Track member facility for longer than 180 days (or 270 days, if applicable) due to unforeseen, temporary, and uncontrollable circumstances, an extension to the extended accumulation time period of up to 30 days may be granted at the discretion of the Regional Administrator on a case-by-case basis.

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(1) If a generator who is a member of the Performance Track Program withdraws from the Performance Track Program, or if the Regional Administrator terminates a generator's membership, the generator must return to compliance with all otherwise applicable hazardous waste regulations as soon as possible, but no later than six months after the date of withdrawal or termination.

[47 FR 1251, Jan. 11, 1982, as amended at 48 FR 14294, Apr. 1, 1983; 49 FR 49571, Dec. 20, 1984; 51 FR 10175, Mar. 24, 1986; 51 FR 25472, July 14, 1986; 55 FR 22684, June 1, 1990; 55 FR 50483, Dec. 6, 1990; 56 FR 3877, Jan. 31, 1991; 56 FR 30195, July 1, 1991; 57 FR 37264, Aug. 18, 1992; 59 FR 62926, Dec. 6, 1994; 61 FR 4911, Feb. 9, 1996; 61 FR 59950, Nov. 25, 1996; 64 FR 3388, Jan. 21, 1999; 64 FR 25414, May 11, 1999; 64 FR 56471, Oct. 20, 1999; 65 FR 12397, Mar. 8, 2000; 69 FR 21753, Apr. 22, 2004]

Subpart D—Recordkeeping and Reporting

§ 262.40 Recordkeeping.

(a) A generator must keep a copy of each manifest signed in accordance with § 262.23(a) for three years or until he receives a signed copy from the designated facility which received the waste. This signed copy must be retained as a record for at least three years from the date the waste was accepted by the initial transporter.

(b) A generator must keep a copy of each Biennial Report and Exception Report for a period of at least three years from the due date of the report.

(c) A generator must keep records of any test results, waste analyses, or other determinations made in accordance with § 262.11 for at least three years from the date that the waste was last sent to on-site or off-site treatment, storage, or disposal.

(d) The periods or retention referred to in this section are extended automatically during the course of any unresolved enforcement action regarding the regulated activity or as requested by the Administrator.

[45 FR 33142, May 19, 1980, as amended at 48 FR 3981, Jan. 28, 1983]

§ 262.41 Biennial report.

(a) A generator who ships any hazardous waste off-site to a treatment,

storage or disposal facility within the United States must prepare and submit a single copy of a Biennial Report to the Regional Administrator by March 1 of each even numbered year. The Biennial Report must be submitted on EPA Form 8700-13A, must cover generator activities during the previous year, and must include the following information:

(1) The EPA identification number, name, and address of the generator;

(2) The calendar year covered by the report;

(3) The EPA identification number, name, and address for each off-site treatment, storage, or disposal facility in the United States to which waste was shipped during the year;

(4) The name and EPA identification number of each transporter used during the reporting year for shipments to a treatment, storage or disposal facility within the United States;

(5) A description, EPA hazardous waste number (from 40 CFR part 261, subpart C or D), DOT hazard class, and quantity of each hazardous waste shipped off-site for shipments to a treatment, storage or disposal facility within the United States. This information must be listed by EPA identification number of each such off-site facility to which waste was shipped.

(6) A description of the efforts undertaken during the year to reduce the volume and toxicity of waste generated.

(7) A description of the changes in volume and toxicity of waste actually achieved during the year in comparison to previous years to the extent such information is available for years prior to 1984.

(8) The certification signed by the generator or authorized representative.

(b) Any generator who treats, stores, or disposes of hazardous waste on-site must submit a biennial report covering those wastes in accordance with the provisions of 40 CFR parts 270, 264, 265, and 266. Reporting for exports of hazardous waste is not required on the Biennial Report form. A separate annual report requirement is set forth at 40 CFR 262.56.

[48 FR 3981, Jan. 28, 1983, as amended at 48 FR 14294, Apr. 1, 1983; 50 FR 28746, July 15, 1985; 51 FR 28682, Aug. 8, 1986]

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§ 262.42 Exception reporting.

(a)(1) A generator of greater than 1000 kilograms of hazardous waste in a calendar month who does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 35 days of the date the waste was accepted by the initial transporter must contact the transporter and/or the owner or operator of the designated facility to determine the status of the hazardous waste.

(2) A generator of greater than 1000 kilograms of hazardous waste in a calendar month must submit an Exception Report to the EPA Regional Administrator for the Region in which the generator is located if he has not received a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 45 days of the date the waste was accepted by the initial transporter. The Exception Report must include:

(i) A legible copy of the manifest for which the generator does not have confirmation of delivery;

(ii) A cover letter signed by the generator or his authorized representative explaining the efforts taken to locate the hazardous waste and the results of those efforts.

(b) A generator of greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month who does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 60 days of the date the waste was accepted by the initial transporter must submit a legible copy of the manifest, with some indication that the generator has not received confirmation of delivery, to the EPA Regional Administrator for the Region in which the generator is located.

NOTE: The submission to EPA need only be a handwritten or typed note on the manifest itself, or on an attached sheet of paper, stating that the return copy was not received.

[52 FR 35898, Sept. 23, 1987]

§ 262.43 Additional reporting.

The Administrator, as he deems necessary under sections 2002(a) and 3002(6) of the Act, may require generators to

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furnish additional reports concerning the quantities and disposition of wastes identified or listed in 40 CFR part 261.

§ 262.44 Special requirements for generators of between 100 and 1000 kg/mo.

A generator of greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month is subject only to the following requirements in this subpart:

(a) Section 262.40(a), (c), and (d), recordkeeping;

(b) Section 262.42(b), exception reporting; and

(c) Section 262.43, additional reporting.

[52 FR 35899, Sept. 23, 1987]

Subpart E—Exports of Hazardous Waste

SOURCE: 51 FR 28682, Aug. 8, 1986, unless otherwise noted.

§ 262.50 Applicability.

This subpart establishes requirements applicable to exports of hazardous waste. Except to the extent § 262.58 provides otherwise, a primary exporter of hazardous waste must comply with the special requirements of this subpart and a transporter transporting hazardous waste for export must comply with applicable requirements of part 263. Section 262.58 sets forth the requirements of international agreements between the United States and receiving countries which establish different notice, export, and enforcement procedures for the transportation, treatment, storage and disposal of hazardous waste for shipments between the United States and those countries.

§ 262.51 Definitions.

In addition to the definitions set forth at 40 CFR 260.10, the following definitions apply to this subpart:

Consignee means the ultimate treatment, storage or disposal facility in a receiving country to which the hazardous waste will be sent.

EPA Acknowledgement of Consent means the cable sent to EPA from the

U.S. Embassy in a receiving country that acknowledges the written consent of the receiving country to accept the hazardous waste and describes the terms and conditions of the receiving country's consent to the shipment.

Primary Exporter means any person who is required to originate the manifest for a shipment of hazardous waste in accordance with 40 CFR part 262, subpart B, or equivalent State provision, which specifies a treatment, storage, or disposal facility in a receiving country as the facility to which the hazardous waste will be sent and any intermediary arranging for the export.

Receiving country means a foreign country to which a hazardous waste is sent for the purpose of treatment, storage or disposal (except short-term storage incidental to transportation).

Transit country means any foreign country, other than a receiving country, through which a hazardous waste is transported.

[53 FR 27164, July 19, 1988]

§ 262.52 General requirements.

Exports of hazardous waste are prohibited except in compliance with the applicable requirements of this subpart and part 263. Exports of hazardous waste are prohibited unless:

- (a) Notification in accordance with § 262.53 has been provided;
- (b) The receiving country has consented to accept the hazardous waste;
- (c) A copy of the EPA Acknowledgment of Consent to the shipment accompanies the hazardous waste shipment and, unless exported by rail, is attached to the manifest (or shipping paper for exports by water (bulk shipment)).
- (d) The hazardous waste shipment conforms to the terms of the receiving country's written consent as reflected in the EPA Acknowledgment of Consent.

§ 262.53 Notification of intent to export.

(a) A primary exporter of hazardous waste must notify EPA of an intended export before such waste is scheduled to leave the United States. A complete notification should be submitted sixty (60) days before the initial shipment is intended to be shipped off site. This no-

tification may cover export activities extending over a twelve (12) month or lesser period. The notification must be in writing, signed by the primary exporter, and include the following information:

(1) Name, mailing address, telephone number and EPA ID number of the primary exporter;

(2) By consignee, for each hazardous waste type:

(i) A description of the hazardous waste and the EPA hazardous waste number (from 40 CFR part 261, subparts C and D), U.S. DOT proper shipping name, hazard class and ID number (UN/NA) for each hazardous waste as identified in 49 CFR parts 171 through 177;

(ii) The estimated frequency or rate at which such waste is to be exported and the period of time over which such waste is to be exported.

(iii) The estimated total quantity of the hazardous waste in units as specified in the instructions to the Uniform Hazardous Waste Manifest Form (8700-22);

(iv) All points of entry to and departure from each foreign country through which the hazardous waste will pass;

(v) A description of the means by which each shipment of the hazardous waste will be transported (e.g., mode of transportation vehicle (air, highway, rail, water, etc.), type(s) of container (drums, boxes, tanks, etc.));

(vi) A description of the manner in which the hazardous waste will be treated, stored or disposed of in the receiving country (e.g., land or ocean incineration, other land disposal, ocean dumping, recycling);

(vii) The name and site address of the consignee and any alternate consignee; and

(viii) The name of any transit countries through which the hazardous waste will be sent and a description of the approximate length of time the hazardous waste will remain in such country and the nature of its handling while there;

(b) Notifications submitted by mail should be sent to the following mailing address: Office of Enforcement and Compliance Assurance, Office of Compliance, Enforcement Planning, Targeting, and Data Division (2222A), Environmental Protection Agency, 1200

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Pennsylvania Ave., NW., Washington, DC 20460. Hand-delivered notifications should be sent to: Office of Enforcement and Compliance Assurance, Office of Compliance, Enforcement Planning, Targeting, and Data Division (2222A), Environmental Protection Agency, Ariel Rios Bldg., 12th St. and Pennsylvania Ave., NW., Washington, DC. In both cases, the following shall be prominently displayed on the front of the envelope: “Attention: Notification of Intent to Export.”

(c) Except for changes to the telephone number in paragraph (a)(1) of this section, changes to paragraph (a)(2)(v) of this section and decreases in the quantity indicated pursuant to paragraph (a)(2)(iii) of this section when the conditions specified on the original notification change (including any exceedance of the estimate of the quantity of hazardous waste specified in the original notification), the primary exporter must provide EPA with a written renotification of the change. The shipment cannot take place until consent of the receiving country to the changes (except for changes to paragraph (a)(2)(viii) of this section and in the ports of entry to and departure from transit countries pursuant to paragraph (a)(2)(iv) of this section) has been obtained and the primary exporter receives an EPA Acknowledgment of Consent reflecting the receiving country’s consent to the changes.

(d) Upon request by EPA, a primary exporter shall furnish to EPA any additional information which a receiving country requests in order to respond to a notification.

(e) In conjunction with the Department of State, EPA will provide a complete notification to the receiving country and any transit countries. A notification is complete when EPA receives a notification which EPA determines satisfies the requirements of paragraph (a) of this section. Where a claim of confidentiality is asserted with respect to any notification information required by paragraph (a) of this section, EPA may find the notification not complete until any such claim is resolved in accordance with 40 CFR 260.2.

(f) Where the receiving country consents to the receipt of the hazardous

waste, EPA will forward an EPA Acknowledgment of Consent to the primary exporter for purposes of § 262.54(h). Where the receiving country objects to receipt of the hazardous waste or withdraws a prior consent, EPA will notify the primary exporter in writing. EPA will also notify the primary exporter of any responses from transit countries.

[51 FR 28682, Aug. 8, 1986, as amended at 56 FR 43705, Sept. 4, 1991; 61 FR 16309, Apr. 12, 1996]

§ 262.54 Special manifest requirements.

A primary exporter must comply with the manifest requirements of 40 CFR 262.20 through 262.23 except that:

(a) In lieu of the name, site address and EPA ID number of the designated permitted facility, the primary exporter must enter the name and site address of the consignee;

(b) In lieu of the name, site address and EPA ID number of a permitted alternate facility, the primary exporter may enter the name and site address of any alternate consignee.

(c) In Special Handling Instructions and Additional Information, the primary exporter must identify the point of departure from the United States;

(d) The following statement must be added to the end of the first sentence of the certification set forth in Item 16 of the Uniform Hazardous Waste Manifest Form: “and conforms to the terms of the attached EPA Acknowledgment of Consent”;

(e) In lieu of the requirements of § 262.21, the primary exporter must obtain the manifest form from the primary exporter’s State if that State supplies the manifest form and requires its use. If the primary exporter’s State does not supply the manifest form, the primary exporter may obtain a manifest form from any source.

(f) The primary exporter must require the consignee to confirm in writing the delivery of the hazardous waste to that facility and to describe any significant discrepancies (as defined in 40 CFR 264.72(a)) between the manifest and the shipment. A copy of the manifest signed by such facility may be used to confirm delivery of the hazardous waste.

(g) In lieu of the requirements of § 262.20(d), where a shipment cannot be delivered for any reason to the designated or alternate consignee, the primary exporter must:

(1) Renotify EPA of a change in the conditions of the original notification to allow shipment to a new consignee in accordance with § 262.53(c) and obtain an EPA Acknowledgment of Consent prior to delivery; or

(2) Instruct the transporter to return the waste to the primary exporter in the United States or designate another facility within the United States; and

(3) Instruct the transporter to revise the manifest in accordance with the primary exporter's instructions.

(h) The primary exporter must attach a copy of the EPA Acknowledgment of Consent to the shipment to the manifest which must accompany the hazardous waste shipment. For exports by rail or water (bulk shipment), the primary exporter must provide the transporter with an EPA Acknowledgment of Consent which must accompany the hazardous waste but which need not be attached to the manifest except that for exports by water (bulk shipment) the primary exporter must attach the copy of the EPA Acknowledgment of Consent to the shipping paper.

(i) The primary exporter shall provide the transporter with an additional copy of the manifest for delivery to the U.S. Customs official at the point the hazardous waste leaves the United States in accordance with § 263.20(g)(4).

§ 262.55 Exception reports.

In lieu of the requirements of § 262.42, a primary exporter must file an exception report with the Administrator if:

(a) He has not received a copy of the manifest signed by the transporter stating the date and place of departure from the United States within forty-five (45) days from the date it was accepted by the initial transporter;

(b) Within ninety (90) days from the date the waste was accepted by the initial transporter, the primary exporter has not received written confirmation from the consignee that the hazardous waste was received;

(c) The waste is returned to the United States.

§ 262.56 Annual reports.

(a) Primary exporters of hazardous waste shall file with the Administrator no later than March 1 of each year, a report summarizing the types, quantities, frequency, and ultimate destination of all hazardous waste exported during the previous calendar year. Such reports shall include the following:

(1) The EPA identification number, name, and mailing and site address of the exporter;

(2) The calendar year covered by the report;

(3) The name and site address of each consignee;

(4) By consignee, for each hazardous waste exported, a description of the hazardous waste, the EPA hazardous waste number (from 40 CFR part 261, subpart C or D), DOT hazard class, the name and US EPA ID number (where applicable) for each transporter used, the total amount of waste shipped and number of shipments pursuant to each notification;

(5) Except for hazardous waste produced by exporters of greater than 100 kg but less than 1000 kg in a calendar month, unless provided pursuant to § 262.41, in even numbered years:

(i) A description of the efforts undertaken during the year to reduce the volume and toxicity of waste generated; and

(ii) A description of the changes in volume and toxicity of waste actually achieved during the year in comparison to previous years to the extent such information is available for years prior to 1984.

(6) A certification signed by the primary exporter which states:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment.

(b) Annual reports submitted by mail should be sent to the following mailing address: Office of Enforcement and

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Compliance Assurance, Office of Compliance, Enforcement Planning, Targeting, and Data Division (2222A), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Hand-delivered reports should be sent to: Office of Enforcement and Compliance Assurance, Office of Compliance, Enforcement Planning, Targeting, and Data Division (2222A), Environmental Protection Agency, Ariel Rios Bldg., 12th St. and Pennsylvania Ave., NW., Washington, DC.

[51 FR 28682, Aug. 8, 1986, as amended at 56 FR 43705, Sept. 4, 1991; 61 FR 16309, Apr. 12, 1996]

§ 262.57 Recordkeeping.

(a) For all exports a primary exporter must:

(1) Keep a copy of each notification of intent to export for a period of at least three years from the date the hazardous waste was accepted by the initial transporter;

(2) Keep a copy of each EPA Acknowledgment of Consent for a period of at least three years from the date the hazardous waste was accepted by the initial transporter;

(3) Keep a copy of each confirmation of delivery of the hazardous waste from the consignee for at least three years from the date the hazardous waste was accepted by the initial transporter; and

(4) Keep a copy of each annual report for a period of at least three years from the due date of the report.

(b) The periods of retention referred to in this section are extended automatically during the course of any unresolved enforcement action regarding the regulated activity or as requested by the Administrator.

§ 262.58 International agreements.

(a) Any person who exports or imports hazardous waste subject to Federal manifest requirements of Part 262, or subject to the universal waste management standards of 40 CFR Part 273, or subject to State requirements analogous to 40 CFR Part 273, to or from designated member countries of the Organization for Economic Cooperation and Development (OECD) as defined in paragraph (a)(1) of this section for purposes of recovery is subject to Subpart

H of this part. The requirements of Subparts E and F do not apply.

(1) For the purposes of this Subpart, the designated OECD countries consist of Australia, Austria, Belgium, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Japan, Luxembourg, Netherlands, New Zealand, Norway, Portugal, Spain, Sweden, Switzerland, Turkey, United Kingdom, and the United States.

(2) For the purposes of this Subpart, Canada and Mexico are considered OECD member countries only for the purpose of transit.

(b) Any person who exports hazardous waste to or imports hazardous waste from: a designated OECD member country for purposes other than recovery (e.g., incineration, disposal), Mexico (for any purpose), or Canada (for any purpose) remains subject to the requirements of subparts E and F of this part.

[61 FR 16310, Apr. 12, 1996]

Subpart F—Imports of Hazardous Waste

§ 262.60 Imports of hazardous waste.

(a) Any person who imports hazardous waste from a foreign country into the United States must comply with the requirements of this part and the special requirements of this subpart.

(b) When importing hazardous waste, a person must meet all the requirements of § 262.20(a) for the manifest except that:

(1) In place of the generator's name, address and EPA identification number, the name and address of the foreign generator and the importer's name, address and EPA identification number must be used.

(2) In place of the generator's signature on the certification statement, the U.S. importer or his agent must sign and date the certification and obtain the signature of the initial transporter.

(c) A person who imports hazardous waste must obtain the manifest form from the consignment State if the State supplies the manifest and requires its use. If the consignment State does not supply the manifest form,

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then the manifest form may be obtained from any source.

[51 FR 28685, Aug. 8, 1986]

Subpart G—Farmers

§ 262.70 Farmers.

A farmer disposing of waste pesticides from his own use which are hazardous wastes is not required to comply with the standards in this part or other standards in 40 CFR parts 264, 265, 268, or 270 for those wastes provided he triple rinses each emptied pesticide container in accordance with § 261.7(b)(3) and disposes of the pesticide residues on his own farm in a manner consistent with the disposal instructions on the pesticide label.

[53 FR 27165, July 19, 1988]

Subpart H—Transfrontier Shipments of Hazardous Waste for Recovery within the OECD

SOURCE: 61 FR 16310, Apr. 12, 1996, unless otherwise noted.

§ 262.80 Applicability.

(a) The requirements of this subpart apply to imports and exports of wastes that are considered hazardous under U.S. national procedures and are destined for recovery operations in the countries listed in § 262.58(a)(1). A waste is considered hazardous under U.S. national procedures if it meets the Federal definition of hazardous waste in 40 CFR 261.3 and it is subject to either the Federal manifesting requirements at 40 CFR Part 262, Subpart B, to the universal waste management standards of 40 CFR Part 273, or to State requirements analogous to 40 CFR Part 273.

(b) Any person (notifier, consignee, or recovery facility operator) who mixes two or more wastes (including hazardous and non-hazardous wastes) or otherwise subjects two or more wastes (including hazardous and non-hazardous wastes) to physical or chemical transformation operations, and thereby creates a new hazardous waste, becomes a generator and assumes all subsequent generator duties under RCRA and any notifier duties, if applicable, under this subpart.

§ 262.81 Definitions.

The following definitions apply to this subpart.

(a) *Competent authorities* means the regulatory authorities of concerned countries having jurisdiction over transfrontier movements of wastes destined for recovery operations.

(b) *Concerned countries* means the exporting and importing OECD member countries and any OECD member countries of transit.

(c) *Consignee* means the person to whom possession or other form of legal control of the waste is assigned at the time the waste is received in the importing country.

(d) *Country of transit* means any designated OECD country in § 262.58(a)(1) and (a)(2) other than the exporting or importing country across which a transfrontier movement of wastes is planned or takes place.

(e) *Exporting country* means any designated OECD member country in § 262.58(a)(1) from which a transfrontier movement of wastes is planned or has commenced.

(f) *Importing country* means any designated OECD country in § 262.58(a)(1) to which a transfrontier movement of wastes is planned or takes place for the purpose of submitting the wastes to recovery operations therein.

(g) *Notifier* means the person under the jurisdiction of the exporting country who has, or will have at the time the planned transfrontier movement commences, possession or other forms of legal control of the wastes and who proposes their transfrontier movement for the ultimate purpose of submitting them to recovery operations. When the United States (U.S.) is the exporting country, notifier is interpreted to mean a person domiciled in the U.S.

(h) *OECD area* means all land or marine areas under the national jurisdiction of any designated OECD member country in § 262.58. When the regulations refer to shipments to or from an OECD country, this means OECD area.

(i) *Recognized trader* means a person who, with appropriate authorization of concerned countries, acts in the role of principal to purchase and subsequently sell wastes; this person has legal control of such wastes from time of purchase to time of sale; such a person

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may act to arrange and facilitate transfrontier movements of wastes destined for recovery operations.

(j) *Recovery facility* means an entity which, under applicable domestic law, is operating or is authorized to operate in the importing country to receive wastes and to perform recovery operations on them.

(k) *Recovery operations* means activities leading to resource recovery, recycling, reclamation, direct re-use or alternative uses as listed in Table 2.B of the Annex of OECD Council Decision C(88)90(Final) of 27 May 1988, (available from the Environmental Protection Agency, RCRA Information Center (RIC), 1235 Jefferson-Davis Highway, first floor, Arlington, VA 22203 (Docket # F-94-IEHF-FFFFF) and the Organisation for Economic Co-operation and Development, Environment Directorate, 2 rue Andre Pascal, 75775 Paris Cedex 16, France) which include:

- R1 Use as a fuel (other than in direct incineration) or other means to generate energy
- R2 Solvent reclamation/regeneration
- R3 Recycling/reclamation of organic substances which are not used as solvents
- R4 Recycling/reclamation of metals and metal compounds
- R5 Recycling/reclamation of other inorganic materials
- R6 Regeneration of acids or bases
- R7 Recovery of components used for pollution control
- R8 Recovery of components from catalysts
- R9 Used oil re-refining or other reuses of previously used oil
- R10 Land treatment resulting in benefit to agriculture or ecological improvement
- R11 Uses of residual materials obtained from any of the operations numbered R1-R10
- R12 Exchange of wastes for submission to any of the operations numbered R1-R11
- 6R13 Accumulation of material intended for any operation in Table 2.B

(l) *Transfrontier movement* means any shipment of wastes destined for recovery operations from an area under the national jurisdiction of one OECD member country to an area under the national jurisdiction of another OECD member country.

§ 262.82 General conditions.

(a) *Scope.* The level of control for exports and imports of waste is indicated by assignment of the waste to a green, amber, or red list and by U.S. national

procedures as defined in § 262.80(a). The green, amber, and red lists are incorporated by reference in § 262.89 (e).

(1) Wastes on the green list are subject to existing controls normally applied to commercial transactions, except as provided below:

(i) Green-list wastes that are considered hazardous under U.S. national procedures are subject to amber-list controls.

(ii) Green-list waste that are sufficiently contaminated or mixed with amber-list wastes, such that the waste or waste mixture is considered hazardous under U.S. national procedures, are subject to amber-list controls.

(iii) Green-list wastes that are sufficiently contaminated or mixed with other wastes subject to red-list controls such that the waste or waste mixture is considered hazardous under U.S. national procedures must be handled in accordance with the red-list controls.

(2) Wastes on the amber list that are considered hazardous under U.S. national procedures as defined in § 262.80(a) are subject to the amber-list controls of this Subpart.

(i) If amber-list wastes are sufficiently contaminated or mixed with other wastes subject to red-list controls such that the waste or waste mixture is considered hazardous under U.S. national procedures, the wastes must be handled in accordance with the red-list controls.

(ii) [Reserved]

(3) Wastes on the red list that are considered hazardous under U.S. national procedures as defined in § 262.80(a) are subject to the red-list controls of this subpart.

NOTE TO PARAGRAPH (a)(3): Some wastes on the amber or red lists are not listed or otherwise identified as hazardous under RCRA (e.g., polychlorinated biphenyls) and therefore are not subject to the amber- or red-list controls of this subpart. Regardless of the status of the waste under RCRA, however, other Federal environmental statutes (e.g., the Toxic Substances Control Act) may restrict certain waste imports or exports. Such restrictions continue to apply without regard to this Subpart.

(4) Wastes not yet assigned to a list are eligible for transfrontier movements, as follows:

(i) If such wastes are considered hazardous under U.S. national procedures

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as defined in §262.80(a), these wastes are subject to the red-list controls; or

(ii) If such wastes are not considered hazardous under U.S. national procedures as defined in §262.80(a), such wastes may move as though they appeared on the green list.

(b) *General conditions applicable to transfrontier movements of hazardous waste.*

(1) The waste must be destined for recovery operations at a facility that, under applicable domestic law, is operating or is authorized to operate in the importing country;

(2) The transfrontier movement must be in compliance with applicable international transport agreements; and

NOTE TO PARAGRAPH (B)(2): These international agreements include, but are not limited to, the Chicago Convention (1944), ADR (1957), ADN (1970), MARPOL Convention (1973/1978), SOLAS Convention (1974), IMDG Code (1985), COTIF (1985), and RID (1985).

(3) Any transit of waste through a non-OECD member country must be conducted in compliance with all applicable international and national laws and regulations.

(c) *Provisions relating to re-export for recovery to a third country.* (1) Re-export of wastes subject to the amber-list control system from the U.S., as the importing country, to a third country listed in §262.58(a)(1) may occur only after a notifier in the U.S. provides notification to and obtains consent of the competent authorities in the third country, the original exporting country, and new transit countries. The notification must comply with the notice and consent procedures in §262.83 for all concerned countries and the original exporting country. The competent authorities of the original exporting country as well as the competent authorities of all other concerned countries have 30 days to object to the proposed movement.

(i) The 30-day period begins once the competent authorities of both the initial exporting country and new importing country issue Acknowledgements of Receipt of the notification.

(ii) The transfrontier movement may commence if no objection has been lodged after the 30-day period has passed or immediately after written

consent is received from all relevant OECD importing and transit countries.

(2) Re-export of waste subject to the red-list control system from the original importing country to a third country listed in §262.58(a)(1) may occur only following notification of the competent authorities of the third country, the original exporting country, and new transit countries by a notifier in the original importing country in accordance with §262.83. The transfrontier movement may not proceed until receipt by the original importing country of written consent from the competent authorities of the third country, the original exporting country, and new transit countries.

(3) In the case of re-export of amber or red-list wastes to a country other than those in §262.58(a)(1), notification to and consent of the competent authorities of the original OECD member country of export and any OECD member countries of transit is required as specified in paragraphs (c)(1) and (c)(2) of this section in addition to compliance with all international agreements and arrangements to which the first importing OECD member country is a party and all applicable regulatory requirements for exports from the first importing country.

§ 262.83 Notification and consent.

(a) *Applicability.* Consent must be obtained from the competent authorities of the relevant OECD importing and transit countries prior to exporting hazardous waste destined for recovery operations subject to this Subpart. Hazardous wastes subject to amber-list controls are subject to the requirements of paragraph (b) of this section; hazardous wastes subject to red-list controls are subject to the requirements of paragraph (c) of this section; and wastes not identified on any list are subject to the requirements of paragraph (d) of this section.

(b) *Amber-list wastes.* The export from the U.S. of hazardous wastes as described in §262.80(a) that appear on the amber list is prohibited unless the notification and consent requirements of paragraph (b)(1) or paragraph (b)(2) of this section are met.

(1) Transactions requiring specific consent:

(i) *Notification.* At least 45 days prior to commencement of the transfrontier movement, the notifier must provide written notification in English of the proposed transfrontier movement to the Office of Enforcement and Compliance Assurance, Office of Compliance, Enforcement Planning, Targeting and Data Division (2222A), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460, with the words “Attention: OECD Export Notification” prominently displayed on the envelope. This notification must include all of the information identified in paragraph (e) of this section. In cases where wastes having similar physical and chemical characteristics, the same United Nations classification, and the same RCRA waste codes are to be sent periodically to the same recovery facility by the same notifier, the notifier may submit one notification of intent to export these wastes in multiple shipments during a period of up to one year.

(ii) *Tacit consent.* If no objection has been lodged by any concerned country (*i.e.*, exporting, importing, or transit countries) to a notification provided pursuant to paragraph (b)(1)(i) of this section within 30 days after the date of issuance of the Acknowledgment of Receipt of notification by the competent authority of the importing country, the transfrontier movement may commence. Tacit consent expires one calendar year after the close of the 30 day period; renotification and renewal of all consents is required for exports after that date.

(iii) *Written consent.* If the competent authorities of all the relevant OECD importing and transit countries provide written consent in a period less than 30 days, the transfrontier movement may commence immediately after all necessary consents are received. Written consent expires for each relevant OECD importing and transit country one calendar year after the date of that country’s consent unless otherwise specified; renotification and renewal of each expired consent is required for exports after that date.

(2) Shipments to facilities pre-approved by the competent authorities of the importing countries to accept specific wastes for recovery:

(i) The notifier must provide EPA the information identified in paragraph (e) of this section in English, at least 10 days in advance of commencing shipment to a pre-approved facility. The notification should indicate that the recovery facility is pre-approved, and may apply to a single specific shipment or to multiple shipments as described in paragraph (b)(1)(i) of this section. This information must be sent to the Office of Enforcement and Compliance Assurance, Office of Compliance, Enforcement Planning, Targeting and Data Division (2222A), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460, with the words “OECD Export Notification—Pre-approved Facility” prominently displayed on the envelope.

(ii) Shipments may commence after the notification required in paragraph (b)(1)(i) of this section has been received by the competent authorities of all concerned countries, unless the notifier has received information indicating that the competent authorities of one or more concerned countries objects to the shipment.

(c) *Red-list wastes.* The export from the U.S. of hazardous wastes as described in §262.80(a) that appear on the red list is prohibited unless notice is given pursuant to paragraph (b)(1)(i) of this section and the notifier receives *written* consent from the importing country and any transit countries prior to commencement of the transfrontier movement.

(d) *Unlisted wastes.* Wastes not assigned to the green, amber, or red list that are considered hazardous under U.S. national procedures as defined in §262.80(a) are subject to the notification and consent requirements established for red-list wastes in accordance with paragraph (c) of this section. Unlisted wastes that are not considered hazardous under U.S. national procedures as defined in §262.80(a) are not subject to amber or red controls when exported or imported.

(e) *Notification information.* Notifications submitted under this section must include:

(1) Serial number or other accepted identifier of the notification form;

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(2) Notifier name and EPA identification number (if applicable), address, and telephone and telefax numbers;

(3) Importing recovery facility name, address, telephone and telefax numbers, and technologies employed;

(4) Consignee name (if not the owner or operator of the recovery facility) address, and telephone and telefax numbers; whether the consignee will engage in waste exchange or storage prior to delivering the waste to the final recovery facility and identification of recovery operations to be employed at the final recovery facility;

(5) Intended transporters and/or their agents;

(6) Country of export and relevant competent authority, and point of departure;

(7) Countries of transit and relevant competent authorities and points of entry and departure;

(8) Country of import and relevant competent authority, and point of entry;

(9) Statement of whether the notification is a single notification or a general notification. If general, include period of validity requested;

(10) Date foreseen for commencement of transfrontier movement;

(11) Designation of waste type(s) from the appropriate list (amber or red and waste list code), descriptions of each waste type, estimated total quantity of each, RCRA waste code, and United Nations number for each waste type; and

(12) Certification/Declaration signed by the notifier that states:

I certify that the above information is complete and correct to the best of my knowledge. I also certify that legally-enforceable written contractual obligations have been entered into, and that any applicable insurance or other financial guarantees are or shall be in force covering the transfrontier movement.

Name: _____
Signature: _____
Date: _____

NOTE TO PARAGRAPH (e)(12): The U.S. does not currently require financial assurance; however, U.S. exporters may be asked by other governments to provide and certify to such assurance as a condition of obtaining consent to a proposed movement.

§ 262.84 Tracking document.

(a) All U.S. parties subject to the contract provisions of § 262.85 must ensure that a tracking document meeting the conditions of § 262.84(b) accompanies each transfrontier shipment of wastes subject to amber-list or red-list controls from the initiation of the shipment until it reaches the final recovery facility, including cases in which the waste is stored and/or exchanged by the consignee prior to shipment to the final recovery facility, except as provided in §§ 262.84(a)(1) and (2).

(1) For shipments of hazardous waste within the U.S. solely by water (bulk shipments only) the generator must forward the tracking document with the manifest to the last water (bulk shipment) transporter to handle the waste in the U.S. if exported by water, (in accordance with the manifest routing procedures at § 262.23(c)).

(2) For rail shipments of hazardous waste within the U.S. which originate at the site of generation, the generator must forward the tracking document with the manifest (in accordance with the routing procedures for the manifest in § 262.23(d)) to the next non-rail transporter, if any, or the last rail transporter to handle the waste in the U.S. if exported by rail.

(b) The tracking document must include all information required under § 262.83 (for notification), and the following:

(1) Date shipment commenced.

(2) Name (if not notifier), address, and telephone and telefax numbers of primary exporter.

(3) Company name and EPA ID number of all transporters.

(4) Identification (license, registered name or registration number) of means of transport, including types of packaging.

(5) Any special precautions to be taken by transporters.

(6) Certification/declaration signed by notifier that no objection to the shipment has been lodged as follows:

I certify that the above information is complete and correct to the best of my knowledge. I also certify that legally-enforceable written contractual obligations have been entered into, that any applicable insurance or other financial guarantees are

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or shall be in force covering the transfrontier movement, and that:

1. All necessary consents have been received; OR

2. The shipment is directed at a recovery facility within the OECD area and no objection has been received from any of the concerned countries within the 30 day tacit consent period; OR

3. The shipment is directed at a recovery facility pre-authorized for that type of waste within the OECD area; such an authorization has not been revoked, and no objection has been received from any of the concerned countries.

(delete sentences that are not applicable)

Name: _____

Signature: _____

Date: _____

(7) Appropriate signatures for each custody transfer (e.g. transporter, consignee, and owner or operator of the recovery facility).

(c) Notifiers also must comply with the special manifest requirements of 40 CFR 262.54(a), (b), (c), (e), and (i) and consignees must comply with the import requirements of 40 CFR part 262, subpart F.

(d) Each U.S. person that has physical custody of the waste from the time the movement commences until it arrives at the recovery facility must sign the tracking document (e.g. transporter, consignee, and owner or operator of the recovery facility).

(e) Within 3 working days of the receipt of imports subject to this Subpart, the owner or operator of the U.S. recovery facility must send signed copies of the tracking document to the notifier, to the Office of Enforcement and Compliance Assurance, Office of Compliance, Enforcement Planning, Targeting and Data Division (2222A), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460, and to the competent authorities of the exporting and transit countries.

§ 262.85 Contracts.

(a) Transfrontier movements of hazardous wastes subject to amber or red control procedures are prohibited unless they occur under the terms of a valid written contract, chain of contracts, or equivalent arrangements (when the movement occurs between parties controlled by the same cor-

porate or legal entity). Such contracts or equivalent arrangements must be executed by the notifier and the owner or operator of the recovery facility, and must specify responsibilities for each. Contracts or equivalent arrangements are valid for the purposes of this section only if persons assuming obligations under the contracts or equivalent arrangements have appropriate legal status to conduct the operations specified in the contract or equivalent arrangement.

(b) Contracts or equivalent arrangements must specify the name and EPA ID number, where available, of:

(1) The generator of each type of waste;

(2) Each person who will have physical custody of the wastes;

(3) Each person who will have legal control of the wastes; and

(4) The recovery facility.

(c) Contracts or equivalent arrangements must specify which party to the contract will assume responsibility for alternate management of the wastes if its disposition cannot be carried out as described in the notification of intent to export. In such cases, contracts must specify that:

(1) The person having actual possession or physical control over the wastes will immediately inform the notifier and the competent authorities of the exporting and importing countries and, if the wastes are located in a country of transit, the competent authorities of that country; and

(2) The person specified in the contract will assume responsibility for the adequate management of the wastes in compliance with applicable laws and regulations including, if necessary, arranging their return to the original country of export.

(d) Contracts must specify that the consignee will provide the notification required in § 262.82(c) prior to re-export of controlled wastes to a third country.

(e) Contracts or equivalent arrangements must include provisions for financial guarantees, if required by the competent authorities of any concerned country, in accordance with applicable national or international law requirements.

NOTE TO PARAGRAPH (e): Financial guarantees so required are intended to

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provide for alternate recycling, disposal or other means of sound management of the wastes in cases where arrangements for the shipment and the recovery operations cannot be carried out as foreseen. The U.S. does not require such financial guarantees at this time; however, some OECD countries do. It is the responsibility of the notifier to ascertain and comply with such requirements; in some cases, transporters or consignees may refuse to enter into the necessary contracts absent specific references or certifications to financial guarantees.

(f) Contracts or equivalent arrangements must contain provisions requiring each contracting party to comply with all applicable requirements of this subpart.

(g) Upon request by EPA, U.S. notifiers, consignees, or recovery facilities must submit to EPA copies of contracts, chain of contracts, or equivalent arrangements (when the movement occurs between parties controlled by the same corporate or legal entity). Information contained in the contracts or equivalent arrangements for which a claim of confidentiality is asserted accordance with 40 CFR 2.203(b) will be treated as confidential and will be disclosed by EPA only as provided in 40 CFR 260.2.

NOTE TO PARAGRAPH (g): Although the U.S. does not require routine submission of contracts at this time, OECD Council Decision C(92)39/FINAL allows members to impose such requirements. When other OECD countries require submission of partial or complete copies of the contract as a condition to granting consent to proposed movements, EPA will request the required information; absent submission of such information, some OECD countries may deny consent for the proposed movement.

§ 262.86 Provisions relating to recognized traders.

(a) A recognized trader who takes physical custody of a waste and conducts recovery operations (including storage prior to recovery) is acting as the owner or operator of a recovery facility and must be so authorized in accordance with all applicable Federal laws.

(b) A recognized trader acting as a notifier or consignee for transfrontier shipments of waste must comply with all the requirements of this Subpart associated with being a notifier or consignee.

§ 262.87 Reporting and recordkeeping.

(a) *Annual reports.* For all waste movements subject to this Subpart, persons (e.g., notifiers, recognized traders) who meet the definition of primary exporter in § 262.51 shall file an annual report with the Office of Enforcement and Compliance Assurance, Office of Compliance, Enforcement Planning, Targeting and Data Division (2222A), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460, no later than March 1 of each year summarizing the types, quantities, frequency, and ultimate destination of all such hazardous waste exported during the previous calendar year. (If the primary exporter is required to file an annual report for waste exports that are not covered under this Subpart, he may include all export information in one report provided the following information on exports of waste destined for recovery within the designated OECD member countries is contained in a separate section). Such reports shall include the following:

(1) The EPA identification number, name, and mailing and site address of the notifier filing the report;

(2) The calendar year covered by the report;

(3) The name and site address of each final recovery facility;

(4) By final recovery facility, for each hazardous waste exported, a description of the hazardous waste, the EPA hazardous waste number (from 40 CFR part 261, subpart C or D), designation of waste type(s) from OECD waste list and applicable waste code from the OECD lists, DOT hazard class, the name and U.S. EPA identification number (where applicable) for each transporter used, the total amount of hazardous waste shipped pursuant to this Subpart, and number of shipments pursuant to each notification;

(5) In even numbered years, for each hazardous waste exported, except for hazardous waste produced by exporters

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of greater than 100kg but less than 1000kg in a calendar month, and except for hazardous waste for which information was already provided pursuant to § 262.41:

(i) A description of the efforts undertaken during the year to reduce the volume and toxicity of waste generated; and

(ii) A description of the changes in volume and toxicity of the waste actually achieved during the year in comparison to previous years to the extent such information is available for years prior to 1984; and

(6) A certification signed by the person acting as primary exporter that states:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment.

(b) *Exception reports.* Any person who meets the definition of primary exporter in § 262.51 must file an exception report in lieu of the requirements of § 262.42 with the Administrator if any of the following occurs:

(1) He has not received a copy of the tracking documentation signed by the transporter stating point of departure of the waste from the United States, within forty-five (45) days from the date it was accepted by the initial transporter;

(2) Within ninety (90) days from the date the waste was accepted by the initial transporter, the notifier has not received written confirmation from the recovery facility that the hazardous waste was received;

(3) The waste is returned to the United States.

(c) *Recordkeeping.* (1) Persons who meet the definition of primary exporter in § 262.51 shall keep the following records: § 262.89

(i) A copy of each notification of intent to export and all written consents obtained from the competent authorities of concerned countries for a period

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of at least three years from the date the hazardous waste was accepted by the initial transporter;

(ii) A copy of each annual report for a period of at least three years from the due date of the report; and

(iii) A copy of any exception reports and a copy of each confirmation of delivery (*i.e.*, tracking documentation) sent by the recovery facility to the notifier for at least three years from the date the hazardous waste was accepted by the initial transporter or received by the recovery facility, whichever is applicable.

(2) The periods of retention referred to in this section are extended automatically during the course of any unresolved enforcement action regarding the regulated activity or as requested by the Administrator.

§ 262.88 Pre-approval for U.S. Recovery Facilities. [Reserved]

§ 262.89 OECD Waste Lists.

(a) *General.* For the purposes of this Subpart, a waste is considered hazardous under U.S. national procedures, and hence subject to this Subpart, if the waste:

(1) Meets the Federal definition of hazardous waste in 40 CFR 261.3; and

(2) Is subject to either the Federal RCRA manifesting requirements at 40 CFR part 262, subpart B, to the universal waste management standards of 40 CFR part 273, or to State requirements analogous to 40 CFR part 273.

(b) If a waste is hazardous under paragraph (a) of this section and it appears on the amber or red list, it is subject to amber- or red-list requirements respectively;

(c) If a waste is hazardous under paragraph (a) of this section and it does not appear on either amber or red lists, it is subject to red-list requirements.

(d) The appropriate control procedures for hazardous wastes and hazardous waste mixtures are addressed in § 262.82.

(e) The OECD Green List of Wastes (revised May 1994), Amber List of Wastes and Red List of Wastes (both

revised May 1993) as set forth in Appendix 3, Appendix 4 and Appendix 5, respectively, to the OECD Council Decision C(92)39/FINAL (Concerning the Control of Transfrontier Movements of Wastes Destined for Recovery Operations) are incorporated by reference. These incorporations by reference were approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 on July 11, 1996. These materials are incorporated as they exist on the date of the approval and a notice of any change in these materials will be published in the FEDERAL REGISTER. The materials are available for inspection at: the U.S. Environmental Protection Agency, RCRA Information Center (RIC), 1235 Jefferson-Davis Highway, first floor, Arlington, VA 22203 (Docket # F-94-IEHF-FFFFF) or at the National Archives and Records Administration (NARA), and may be obtained from the Organisation for Economic Co-operation and Development, Environment Directorate, 2 rue Andre Pascal, 75775 Paris Cedex 16, France. For information on the availability of this material at NARA, call 202-741-6030, or go to:

http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html

[61 FR 16310, Apr. 12, 1996, as amended at 69 FR 18803, Apr. 9, 2004]

Subpart I—New York State Public Utilities

SOURCE: 64 FR 37636, July 12, 1999, unless otherwise noted.

§ 262.90 Project XL for Public Utilities in New York State.

(a) The following definitions apply to this section:

(1) A *Utility* is any company that operates wholesale and/or retail oil and gas pipelines, or any company that provides electric power or telephone service and is regulated by New York State's Public Service Commission or the New York Power Authority.

(2) A *right-of-way* is a fixed, integrated network of aboveground or underground conveyances, including land structures, fixed equipment, and other

appurtenances, controlled or owned by a Utility, and used for the purpose of conveying its products or services to customers.

(3) A *remote location* is a location in New York State within a Utility's right-of-way network that is not permanently staffed.

(4) A *Utility's central collection facility (UCCF)* is a Utility-owned facility within the Utility's right-of-way network to which hazardous waste, generated by the Utility at remote locations within the same right-of-way network, is brought.

(b) A UCCF designated pursuant to paragraph (e) of this section may consolidate hazardous waste (with the exception of mixed waste) generated by that Utility at its remote locations (and at that UCCF) for up to 90 days without a permit or without having interim status, provided that:

(1) The Utility complies with all applicable requirements for generators in 40 CFR part 262 (except § 262.34 (d) through (f)) for hazardous waste generated at its remote locations and at the UCCF, including the manifest and pretransport requirements for all shipments greater than 100 kilograms sent from a remote location to a UCCF.

(2) The Utility transports the hazardous waste from the remote location to a UCCF immediately after collection of all hazardous waste at the remote location is complete or when the staff collecting the hazardous waste leave the remote location, whichever comes first.

(3) The Utility complies with all applicable requirements for transporters in 40 CFR part 263 for each shipment of hazardous waste greater than 100 kilograms which is sent from remote location to the UCCF, and all applicable Department of Transportation requirements.

(4)(i) The Utility complies with 40 CFR 262.34 (a) through (c), regardless of the total quantity of hazardous waste generated or consolidated at the UCCF per calendar month;

(ii) The Utility complies with 40 CFR 264.178; and

(iii) Secondary containment is provided for all liquid hazardous waste consolidated in containers if:

(A) The UCCF is consolidating 8,800 gallons or more of liquid hazardous waste, or

(B) The UCCF is consolidating 185 gallons or more of liquid hazardous waste and is located in an area designated by New York State that overlays a sole-source aquifer.

(5) The Utility submits a biennial report in accordance with 40 CFR 262.41 including all hazardous waste shipped from remote locations to the UCCF. This UCCF biennial report may be submitted in lieu of submitting a biennial report for each remote location. However, for hazardous waste generated at a particular remote location that exceeds 1000 kg per calendar month and that is not sent to the UCCF, the Utility must submit a separate biennial report.

(6) Waste generated at a remote location that is not sent to a UCCF is managed according to the requirements of parts 260 through 270 of this chapter.

(7) The Utility maintains records at the UCCF in accordance with all the recordkeeping requirements set forth in subpart D of 40 CFR part 262, including 40 CFR 262.40, and maintains records on any PCB test results for hazardous wastes brought to the facility from remote locations.

(8) The UCCF obtains an EPA identification number.

(9) The UCCF receives hazardous waste only from its remote location.

(10) The Utility reinvests at least one-third of the direct savings described in paragraph (h) of this section in one or more environmentally beneficial projects, such as remediation or pollution prevention, that are over and above existing legal requirements and that have not been initiated prior to the Utility's receipt of approval to consolidate hazardous waste pursuant to this section.

(c) Utilities seeking to have UCCFs designated under paragraph (e) of this section must comply with the following requirements:

(1) Any New York State Utility seeking approval to consolidate hazardous waste under this section must notify local governments and communities of the Utility's intent to designate specific UCCFs.

(2) In carrying out paragraph (c)(1) of this section, the Utility must solicit public comment. In soliciting public comment, the Utility must use the notice method set forth in paragraph (c)(2)(i) of this section, as well as at least two of the methods set forth in paragraphs (c)(2)(ii) through (vii) of this section. Each Utility must also notify by mail all parties who commented on the proposed rule for this XL project.

(i) A public notice in a newspaper of general circulation within the area in which each proposed UCCF is located;

(ii) A radio announcement in each affected community during peak listening hours;

(iii) Mailings to all citizens within a five-mile radius of proposed UCCF;

(iv) Well-publicized community meetings;

(v) Presentations to the local community board;

(vi) Placement of copies of this section and the Final Project Agreement that explains the regulatory relief outlined in this section in the local library nearest the proposed UCCF, and inclusion of the name and address of the library in the newspaper notice; and

(vii) Placement of copies of this section and the Final Project Agreement that explains the regulatory relief outlined in this section on the Utility's web site, and inclusion of the web site's address in the newspaper notice.

(3) All outreach efforts made under paragraph (c)(2) of this section shall be prepared in English (and any other language spoken by a large number of persons in the community of concern) and at a minimum shall include the following information:

(i) A brief description of the XL project, the intended new use of the facility, and a request for comments on the proposed UCCF.

(ii) The name, if any, and address of the proposed UCCF and its current status under the RCRA Subtitle C program.

(iii) The intended duration of use of the UCCF under the requirements of this section.

(iv) Names, addresses, and telephone numbers of contact persons, representing the Utility, to whom questions or comments may be directed.

(v) Notification of when the comment period of no less than 30 days will close.

(4) Prior to the solicitation of public comment pursuant to paragraph (c)(2) of this section, the Utility must submit copies of each notice, announcement or mailing directly to local governments and to EPA.

(5) At the close of the comment period, the Utility shall prepare a Responsiveness Package containing a summary of public outreach efforts, all comments and questions received as a result of its outreach efforts, and the Utility's written responses to all comments and questions. The Utility shall provide copies of its Responsiveness Package to any citizens that participated in the public notice process, local governments and EPA.

(d) Upon completion of the public notice procedures described in paragraph (c) of this section, the Utility must provide written notice to EPA of its intent to participate. The Notice of Intent must contain the following information:

(1) The name of the Utility, corporate address, and corporate mailing address, if different.

(2) The name, mailing address, and telephone number of a corporate-level contact person to whom communications and inquiries may be directed. This contact person may be changed by written notification to EPA.

(3) A list of the names, addresses, and EPA identification numbers, if applicable, of all Utility-owned facilities in New York State that are proposed UCCFs and the names and telephone numbers of a designated contact person at each facility.

(4) A summary of public outreach efforts undertaken pursuant to paragraph (c) of this section.

(5) A commitment that one-third of the direct cost savings outlined in paragraph (h) of this section due to project participation will be reinvested in one or more environmentally beneficial projects which are over and above existing legal requirements and which have not been initiated prior to the Utility's receipt of approval to consolidate hazardous waste pursuant to this section.

(6) An acknowledgment that the signatory is personally familiar with the terms and conditions of this section and has the authority to obligate and does obligate the Utility to comply with all such terms and conditions. The Utility shall comply with the signatory requirements set forth in 40 CFR 270.11(a)(1).

(e) The procedures for designating UCCFs are as follows:

(1) Subject to paragraphs (e)(2) through (5) of this section, the Utility and specified UCCF shall receive approval to comply with the requirements set forth in paragraph (b) of this section upon the receipt of written acknowledgment from EPA that the Notice of Intent described in paragraph (d) of this section has been received and found to be complete and in compliance with all the requirements set forth in paragraph (d) of this section. This acknowledgment will state whether the UCCF has been designated under this section and any additional limitations which have been placed on the UCCF.

(2) Based on information provided and comments received during the public notice and comment period, EPA shall prepare a response to the comments received. The response to comments shall be attached to the acknowledgment described in paragraph (e)(1). Both the acknowledgment and the response to comments shall be sent to all persons who commented on the designation of the UCCF(s) that are the subject of the acknowledgment.

(3) Based on information provided and comments received during or after the public notice and comment period, designated UCCFs may be rejected for the proposed use, or, if EPA determines that acceptance for the proposed use under the conditions of paragraph (b) of this section may not fully protect human health and the environment based on the Utility's compliance history or other appropriate factors, the acknowledgment may impose conditions in addition to those in paragraph (b) of this section.

(4) If EPA determines that a site-specific informational public meeting is warranted prior to determining the acceptability of a designated UCCF, the acknowledgment will so state.

(5) Subsequent to any public meeting, EPA may reject or prohibit UCCFs from participating in this project based on information provided or comments received during or after the public notice process or based on a determination that acceptance for the proposed use under the conditions of paragraph (b) of this section may not fully protect human health and the environment based on the Utility's compliance history or other appropriate factors.

(f) At any time, a Utility may add or remove UCCF designations by complying with the following requirements:

(1) A Utility may notify EPA of its intent to designate additional UCCFs. Such a notification shall be submitted to, and processed by, EPA, in the manner indicated in paragraphs (d) and (e) of this section.

(2) To have one or more additional UCCFs designated, the Utility must comply with paragraph (c) of this section.

(3) A Utility can discontinue use of a facility as a UCCF by notifying EPA in writing.

(g) Each Utility that receives approval to consolidate hazardous waste pursuant to this section shall submit an Annual Progress Report with the following information for the preceding year:

(1) The number of remote locations statewide for which hazardous waste was handled in accordance with paragraph (b) of this section.

(2) The total tonnage of each type of hazardous waste handled by each UCCF.

(3) The number of remote locations statewide from which 1,000 kilograms or more of hazardous waste were collected per calendar month.

(4) The number of remote locations statewide from which between 100 and 1,000 kilograms of hazardous waste were collected per calendar month.

(5) An estimate of the monetary value, on a Utility-wide basis, of the direct savings realized by participation in this project. Direct savings at a minimum include those outlined in paragraph (h) of this section.

(6) Descriptions of the environmental compliance, remediation, or pollution prevention projects or activities into

which the savings, described in paragraph (h) of this section, have been reinvested, with an estimate of the savings reinvested in each. Any such projects must consist of activities that are over and above existing legal requirements and that have not been initiated prior to the Utility's receipt of approval to consolidate hazardous waste pursuant to this section.

(7) The addresses and EPA identification numbers for all facilities that served as UCCFs for hazardous waste from remote locations.

(h) Utilities that receive approval to consolidate hazardous waste pursuant to this section must assess the direct savings realized as a result. Cost estimates shall include direct savings based on relief from any regulatory requirements, which the facility expects to be relieved from due to compliance with the provisions of this section including, but not limited to, the following:

(1) Database management for each remote location as an individual generator;

(2) Biennial Report preparation costs; and/or

(3) Cost savings realized from consolidation of waste for economical shipment (including no longer shipping waste directly to a TSD from remote locations).

(i) If any UCCF or Utility that receives approval under this section fails to comply with any of the requirements of this section, EPA may terminate or suspend the UCCF's or Utility's participation. EPA will provide a UCCF or Utility with 15 days written notice of its intent to terminate or suspend participation. During this period, the UCCF will have the opportunity to come back into compliance or provide a written explanation as to why it was not in compliance with the terms of this section and how it will come back into compliance. If EPA then issues a written notice terminating or suspending participation, the Utility must take immediate action to come into compliance with all otherwise applicable federal requirements. EPA may also take enforcement action against a Utility for non-compliance with the provisions of this section.

(j) This section will expire on January 10, 2005.

Subpart J—University Laboratories XL Project—Laboratory Environmental Management Standard

SOURCE: 64 FR 53292, Sept. 28, 1999, unless otherwise noted.

§ 262.100 To what organizations does this subpart apply?

This subpart applies to an organization that meets all three of the following conditions:

- (a) It is one of the three following academic institutions: The University of Massachusetts Boston in Boston, Massachusetts, Boston College in Chestnut Hill, Massachusetts, or the University of Vermont in Burlington, Vermont (“Universities”); and
- (b) It is a laboratory at one of the Universities (identified pursuant to § 262.105(c)(2)(ii)) where laboratory scale activities, as defined in § 262.102, result in laboratory waste; and
- (c) It complies with all the requirements of this subpart.

§ 262.101 What is in this subpart?

This subpart provides a framework for a new management system for wastes that are generated in University laboratories. This framework is called the Laboratory Environmental Management Standard. The standard includes some specific definitions that apply to the University laboratories. It contains specific requirements for how to handle laboratory waste that are called Minimum Performance Criteria. The standard identifies the requirements for developing and implementing an environmental management plan. It outlines the responsibilities of the management staff of each participating university. Finally, the standard identifies requirements for training people who will work in the laboratories or manage laboratory waste. This Subpart contains requirements for RCRA solid and hazardous waste determination, and circumstances for termination and expiration of this pilot.

§ 262.102 What special definitions are included in this subpart?

For purposes of this subpart, the following definitions apply:

Acutely Hazardous Laboratory Waste means a laboratory waste, defined in the Environmental Management Plan as posing significant potential hazards to human health or the environment and which must include RCRA “P” wastes, and may include particularly hazardous substances as designated in a University’s Chemical Hygiene Plan under OSHA, or Extremely Hazardous Substances under the Emergency Planning and Community Right to Know Act.

Emergency means any occurrence such as, but not limited to, equipment failure, rupture of containers or failure of control equipment which results in the potential uncontrolled release of a hazardous chemical into the environment and which requires agency or fire department notification and/or reporting.

Environmental Management Plan (EMP) means a written program developed and implemented by the university which sets forth standards and procedures, responsibilities, pollution control equipment, performance criteria, resources and work practices that both protect human health and the environment from the hazards presented by laboratory wastes within a laboratory and between a laboratory and the hazardous waste accumulation area, and satisfies the plan requirements defined elsewhere in this Subpart. Certain requirements of this plan are satisfied through the use of the Chemical Hygiene Plan (see, 29 CFR 1910.1450), or equivalent, and other relevant plans, including a waste minimization plan. The elements of the Environmental Management Plan must be easily accessible, but may be integrated into existing plans, incorporated as an attachment, or developed as a separate document.

Environmental Objective means an overall environmental goal of the organization which is verifiable.

Environmental Performance means results of the data collected pursuant to implementation of the Environmental Management Plan as measured against policy, objectives and targets.

Environmental Target means an environmental performance requirement of the organization which is quantifiable, where practicable, verifiable and designed to be achieved within a specified time frame.

Hazardous Chemical means any chemical which is a physical hazard or a health hazard. A physical hazard means a chemical for which there is scientifically valid evidence that it is a combustible liquid, a compressed gas, explosive, flammable, an organic peroxide, an oxidizer, pyrophoric, unstable (reactive) or water-reactive. A health hazard means a chemical for which there is statistically significant evidence based on at least one study conducted in accordance with established scientific principles that acute or chronic health effects may occur in exposed employees. The term “health hazard” includes chemicals which are carcinogens, toxic or highly toxic agents, reproductive toxins, irritants, corrosives, sensitizers, hepatotoxins, nephrotoxins, neurotoxins, agents which act on the hematopoietic system and agents which damage the lungs, skin, eyes or mucous membranes.

Hazardous Chemical of Concern means a chemical that the organization has identified as having the potential to be of significant risk to human health or the environment if not managed in accordance with procedures or practices defined by the organization.

Hazardous Waste Accumulation Area means the on-site area at a University where the University will make a solid and hazardous waste determination with respect to laboratory wastes.

In-Line Waste Collection means a system for the automatic collection of laboratory waste which is directly connected to or part of a laboratory scale activity and which is constructed or operated in a manner which prevents the release of any laboratory waste therein into the environment during collection.

Laboratory means, for the purpose of this Subpart, an area within a facility where the laboratory use of hazardous chemicals occurs. It is a workplace where relatively small quantities of hazardous chemicals are used on a non-production basis. The physical extent of individual laboratories within an or-

ganization will be defined by the Environmental Management Plan. A laboratory may include more than a single room if the rooms are in the same building and under the common supervision of a laboratory supervisor.

Laboratory Clean-Out means an evaluation of the chemical inventory of a laboratory as a result of laboratory renovation, relocation or a change in laboratory supervision that may result in the transfer of laboratory wastes to the hazardous waste accumulation area.

Laboratory Environmental Management Standard means the provisions of this Subpart and includes the requirements for preparation of Environmental Management Plans and the inclusion of Minimum Performance Criteria within each Environmental Management Plan.

Laboratory Scale means work with substances in which containers used for reactions, transfers and other handling of substances are designed to be safely and easily manipulated by one person. “Laboratory Scale” excludes those workplaces whose function is to produce commercial quantities of chemicals.

Laboratory Waste means a hazardous chemical that results from laboratory scale activities and includes the following: excess or unused hazardous chemicals that may or may not be re-used outside their laboratory of origin; hazardous chemicals determined to be RCRA hazardous waste as defined in 40 CFR Part 261; and hazardous chemicals that will be determined not to be RCRA hazardous waste pursuant to § 262.106.

Laboratory Worker means a person who is assigned to handle hazardous chemicals in the laboratory and may include researchers, students or technicians.

Legal and Other Requirements means requirements imposed by, or as a result of, governmental permits, governmental laws and regulations, judicial and administrative enforcement orders, non-governmental legally enforceable contracts, research grants and agreements, certification specifications, formal voluntary commitments and organizational policies and standards.

Senior Management means senior personnel with overall responsibility, authority and accountability for managing laboratory activities within the organization.

Universities means the following academic institutions; University of Vermont, Boston College, and the University of Massachusetts Boston, which are participants in this Laboratory XL project and which are subject to the requirements set forth in this Subpart J.

§ 262.103 What is the scope of the laboratory environmental management standard?

The Laboratory Environmental Management Standard will not affect or supersede any legal requirements other than those described in § 262.10(j). The requirements that continue to apply include, but are not limited to, OSHA, Fire Codes, wastewater permit limitations, emergency response notification provisions, or other legal requirements applicable to University laboratories.

§ 262.104 What are the minimum performance criteria?

The Minimum Performance Criteria that each University must meet in managing its Laboratory Waste are:

(a) Each University must label all laboratory waste with the general hazard class and either the words "laboratory waste" or with the chemical name of the contents. If the container is too small to hold a label, the label must be placed on a secondary container.

(b) Each University may temporarily hold up to 55 gallons of laboratory waste or one quart of acutely hazardous laboratory waste, or weight equivalent, in each laboratory, but upon reaching these thresholds, each University must mark that laboratory waste with the date when this threshold requirement was met (by dating the container(s) or secondary container(s)).

(c) Each university must remove all of the dated laboratory waste from the laboratory for delivery to a location identified in paragraph (i) of this section within 30 days of reaching the threshold amount identified in paragraph (b) of this section.

(d) In no event shall the excess laboratory waste that a laboratory temporarily holds before dated laboratory

waste is removed exceed an additional 55 gallons of laboratory waste (or one additional quart of acutely hazardous laboratory waste). No more than 110 gallons of laboratory waste total (or no more than two quarts of acutely hazardous laboratory waste total) may be temporarily held in a laboratory at any one time. Excess laboratory waste must be dated and removed in accordance with the requirements of paragraphs (b) and (c) of this section.

(e) Containers of laboratory wastes must be:

(1) Closed at all times except when wastes are being added to (including during in-line waste collection) or removed from the container;

(2) Maintained in good condition and stored in the laboratory in a manner to avoid leaks;

(3) Compatible with their contents to avoid reactions between the waste and its container; and must be made of, or lined with, materials which are compatible with the laboratory wastes to be temporarily held in the laboratory so that the container is not impaired; and

(4) Inspected regularly (at least annually) to ensure that they meet requirements for container management.

(f) The management of laboratory waste must not result in the release of hazardous constituents into the land, air and water where such release is prohibited under federal law.

(g) The requirements for emergency response are:

(1) Each University must post notification procedures, location of emergency response equipment to be used by laboratory workers and evacuation procedures;

(2) Emergency response equipment and procedures for emergency response must be appropriate to the hazards in the laboratory such that hazards to human health and the environment will be minimized in the event of an emergency;

(3) In the event of a fire, explosion or other release of laboratory waste which could threaten human health or the environment, the laboratory worker must follow the notification procedures under paragraph (g)(1) of this section.

(h) Each University must investigate, document, and take actions to correct

and prevent future incidents of hazardous chemical spills, exposures and other incidents that trigger a reportable emergency or that require reporting under paragraph (g) of this section.

(i) Each University may only transfer laboratory wastes from a laboratory:

(1) Directly to an on-site designated hazardous waste accumulation area. Notwithstanding 40 CFR 263.10(a), each University must comply with requirements for transporters set forth in 40 CFR 263.30 and 263.31 in the event of a discharge of laboratory waste en route from a laboratory to an on-site hazardous waste accumulation area; or

(2) To a treatment, storage or disposal (TSD) facility permitted to handle the waste under 40 CFR part 270 or in interim status under 40 CFR parts 265 and 270 (or authorized to handle the waste by a state with a hazardous waste management program approved under 40 CFR part 271) if it is determined in the laboratory by the individuals identified in § 262.105(b)(3) to be responsible for waste management decisions that the waste is a hazardous waste and that it is prudent to transfer it directly to a treatment, storage, and disposal facility rather than an on-site accumulation area.

(j) Each University must ensure that laboratory workers receive training and are provided with information so that they can implement and comply with these Minimum Performance Criteria.

§ 262.105 What must be included in the laboratory environmental management plan?

(a) Each University must include specific measures it will take to protect human health and the environment from hazards associated with the management of laboratory wastes and from the reuse, recycling or disposal of such materials outside the laboratory.

(b) Each University must write, implement and comply with an Environmental Management Plan that includes the following:

(1) The specific procedures to assure compliance with each of the Minimum Performance Criteria set forth in § 262.104.

(2) An environmental policy, or environmental, health and safety policy,

signed by the University's senior management, which must include commitments to regulatory compliance, waste minimization, risk reduction and continual improvement of the environmental management system.

(3) A description of roles and responsibilities for the implementation and maintenance of the Laboratory Environmental Management Plan.

(4) A system for identifying and tracking legal and other requirements applicable to laboratory waste, including the procedures for providing updates to laboratory supervisors.

(5) Criteria for the identification of physical and chemical hazards and the control measures to reduce the potential for releases of laboratory wastes to the environment, including engineering controls, the use of personal protective equipment and hygiene practices, containment strategies and other control measures.

(6) A pollution prevention plan, including, but not limited to, roles and responsibilities, training, pollution prevention activities, and performance review.

(7) A system for conducting and updating annual surveys of hazardous chemicals of concern and procedures for identifying acutely hazardous laboratory waste.

(8) The procedures for conducting laboratory clean-outs with regard to the safe management and disposal of laboratory wastes.

(9) The criteria that laboratory workers must comply with for managing, containing and labeling laboratory wastes, including: an evaluation of the need for and the use of any special containers or labeling circumstances, and the use of laboratory wastes secondary containers including packaging, bottles, or test tube racks.

(10) The procedures relevant to the safe and timely removal of laboratory wastes from the laboratory.

(11) The emergency preparedness and response procedures to be implemented for laboratory waste.

(12) Provisions for information dissemination and training, provided for in paragraph (d) of this section.

(13) The procedures for the development and approval of changes to the Environmental Management Plan.

(14) The procedures and work practices for safely transferring or moving laboratory wastes from a laboratory to a location identified in § 262.104(i).

(15) The procedures for regularly inspecting a laboratory to assess conformance with the requirements of the Environmental Management Plan.

(16) The procedures for the identification of environmental management plan noncompliance, and the assignment of responsibility, timelines and corrective actions to prevent their re-occurrence.

(17) The record keeping requirements to document conformance with this Plan.

(c) Organizational responsibilities for each university. Each University must:

(1) Develop and oversee implementation of its Laboratory Environmental Management Plan.

(2) Identify the following:

(i) Annual environmental objectives and targets;

(ii) Those laboratories covered by the requirements of the Laboratory Environmental Management Plan.

(3) Assign roles and responsibilities for the effective implementation of the Environmental Management Plan.

(4) Determine whether laboratory wastes are solid wastes under RCRA and, if so, whether they are hazardous.

(5) Develop, implement, and maintain:

(i) Policies, procedures and practices governing its compliance with the Environmental Management Plan and applicable federal and state hazardous waste regulations.

(ii) Procedures to monitor and measure relevant conformance and environmental performance data for the purpose of supporting continual improvement of the Environmental Management Plan.

(iii) Policies and procedures for managing environmental documents and records applicable to this Environmental Management Standard.

(6) Ensure that:

(i) Its Environmental Management Plan is available to laboratory workers, vendors, employee representatives, visitors, on-site contractors, and upon request, to governmental representatives.

(ii) Personnel designated by each University to handle laboratory wastes and RCRA hazardous waste receive appropriate training.

(iii) The Environmental Management Plan is reviewed at least annually by senior management to ensure its continuing suitability, adequacy and effectiveness. The reviews may include, but not be limited to, a consideration of monitoring and measuring information, Laboratory Environmental Management Standard performance data, assessment and audit results and other relevant information and data.

(d) What are the Information and Training Requirements for Each University?

(1) Each University must ensure that laboratory workers receive training and are provided with the information to understand and implement the elements of each University's Environmental Management Plan that are relevant to the laboratory workers' responsibilities.

(2) When must each University ensure that laboratory workers receive training and information?

(i) Each University must provide the information to each laboratory worker when he/she is first assigned to a work area where laboratory wastes may be generated.

(ii) Each University must ensure that each laboratory worker has had training within six months of when he/she is first assigned to a work area where laboratory wastes may be generated. Each University must retrain a laboratory worker when a laboratory waste poses a new or unique hazard for which the laboratory worker has not received prior training and as frequently as needed to maintain knowledge of the procedures of the Environmental Management Plan.

(3) Each University must provide an outline of training and specify who is to receive training in its Environmental Management Plan.

(4) Each University must ensure that laboratory workers are informed of:

(i) The contents of this Subpart and the Laboratory Environmental Management Plan(s) for the laboratory(ies) in which they will be performing work;

(ii) The location and availability of the Environmental Management Plan;

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(iii) Emergency response measures applicable to laboratories;

(iv) Signs and indicators of a hazardous substance release;

(v) The location and availability of known reference materials relevant to implementation of the Environmental Management Plan; and

(vi) Environmental training requirements applicable to laboratory workers.

(5) Each University must ensure that Laboratory workers have received training in:

(i) Methods and observations that may be used to detect the presence or release of a hazardous substance;

(ii) The chemical and physical hazards associated with laboratory wastes in their work area;

(iii) The relevant measures a laboratory worker can take to protect human health and the environment; and

(iv) Details of the Environmental Management Plan sufficient to ensure they manage laboratory waste in accordance with the requirements of this Subpart.

(6) Requirements pertaining to Laboratory visitors:

(i) Laboratory visitors, such as on-site contractors or environmental vendors, that require information and training under this standard must be identified in the Environmental Management Plan.

(ii) Laboratory visitors identified in the Environmental Management Plan must be informed of the existence and location of the Environmental Management Plan.

(iii) Laboratory visitors identified in the Environmental Management Plan must be informed of relevant policies, procedures or work practices to ensure compliance with the requirements of the Environmental Management Plan.

(7) Each University must define methods of providing objective evidence and records of training and information dissemination in its Environmental Management Plan.

§ 262.106 When must a hazardous waste determination be made?

(a) For laboratory waste sent from a laboratory to an on-site hazardous waste accumulation area, each University must evaluate the laboratory

wastes to determine whether they are solid wastes under RCRA and, if so, determine pursuant to § 262.11 (a) through (d) whether they are hazardous wastes, as soon as the laboratory wastes reach the University's Hazardous Waste Accumulation area(s). At this point each University must determine whether the laboratory waste will be reused or whether it must be managed as RCRA solid or hazardous waste.

(b) For laboratory waste that will be sent from a laboratory to a TSD facility permitted to handle the waste, each University must evaluate such laboratory wastes to determine whether they are solid wastes under RCRA and, if so, determine pursuant to § 262.11 (a) through (d) whether they are hazardous wastes, prior to the 30-day deadline for removing dated laboratory waste from the laboratory.

(c) Laboratory waste that is determined to be hazardous waste is no longer subject to the provisions of this subpart and must be managed in accordance with all applicable provisions of 40 CFR Parts 260 through 270.

§ 262.107 Under what circumstances will a university's participation in this environmental management standard pilot be terminated?

(a) EPA retains the right to terminate a University's participation in this Laboratory XL project if the University:

(1) Is in non-compliance with the Minimum Performance Criteria in § 262.104; or

(2) Has actual environmental management practices in the laboratory that do not conform to its Environmental Management Plan; or

(3) Is in non-compliance with the Hazardous Waste Determination requirements of § 262.106.

(b) In the event of termination, EPA will provide the University with 15 days written notice of its intent to terminate. During this period, which commences upon receipt of the notice, the University will have the opportunity to come back into compliance with the Minimum Performance Criteria, its Environmental Management Plan, or the requirements for making a hazardous waste determination at § 262.106 or to provide a written explanation as

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to why it was not in compliance and how it intends to return to compliance. If, upon review of the University's written explanation, EPA then re-issues a written notice terminating the University from this XL Project, the provisions of paragraph (c) of this section will immediately apply and the University shall have 90 days to come into compliance with the applicable RCRA requirements deferred by §262.10(j). During the 90-day transition period, the provisions of this subpart shall continue to apply to the University.

(c) If a University withdraws from this XL project, or receives a notice of termination pursuant to this section, it must submit to EPA and the state a schedule for returning to full compliance with RCRA requirements at the laboratory level. The schedule must show how the University will return to full compliance with RCRA within 90 days from the date of the notice of termination or withdrawal.

§262.108 When will this subpart expire?

This subpart will expire on September 30, 2006.

[69 FR 11813, Mar. 12, 2004]

APPENDIX TO PART 262—UNIFORM HAZARDOUS WASTE MANIFEST AND INSTRUCTIONS (EPA FORMS 8700-22 AND 8700-22A AND THEIR INSTRUCTIONS)

U.S. EPA Form 8700-22

Read all instructions before completing this form.

This form has been designed for use on a 12-pitch (elite) typewriter; a firm point pen may also be used—press down hard.

Federal regulations require generators and transporters of hazardous waste and owners or operators of hazardous waste treatment, storage, and disposal facilities to use this form (8700-22) and, if necessary, the continuation sheet (Form 8700-22A) for both inter and intrastate transportation.

Federal regulations also require generators and transporters of hazardous waste and owners or operators of hazardous waste treatment, storage and disposal facilities to complete the following information:

Please print or type. (Form designed for use on elite (12-pitch) typewriter.) Form... approved OMB No. 2050-0039 Expires 9-30-91

UNIFORM HAZARDOUS WASTE MANIFEST		1. Generator's US EPA ID No.	Manifest Document No.	2. Page 1 of	Information in the shaded areas is not required by Federal law.
3. Generator's Name and Mailing Address				A. State Manifest Document Number	
4. Generator's Phone ()				B. State Generator's ID	
5. Transporter 1 Company Name	6. US EPA ID Number			C. State Transporter's ID	
7. Transporter 2 Company Name	8. US EPA ID Number			D. Transporter's Phone	
9. Designated Facility Name and Site Address	10. US EPA ID Number			E. State Transporter's ID	
				F. Transporter's Phone	
				G. State Facility's ID	
				H. Facility's Phone	
11. US DOT Description (Including Proper Shipping Name, Hazard Class, and ID Number)		12. Containers No.	Type	13. Total Quantity	14. Unit Wt/Vol
a.					
b.					
c.					
d.					
J. Additional Descriptions for Materials Listed Above		K. Handling Codes for Wastes Listed Above			
15. Special Handling Instructions and Additional Information					
16. GENERATOR'S CERTIFICATION: I hereby declare that the contents of this consignment are fully and accurately described above by proper shipping name and are classified, packed, marked, and labeled, and are in all respects in proper condition for transport by highway according to applicable international and national government regulations. If I am a large quantity generator, I certify that I have a program in place to reduce the volume and toxicity of waste generated to the degree I have determined to be economically practicable and that I have selected the practicable method of treatment, storage, or disposal currently available to me which minimizes the present and future threat to human health and the environment. OR, if I am a small quantity generator, I have made a good faith effort to minimize my waste generation and select the best waste management method that is available to me and that I can afford.					
Printed/Typed Name		Signature		Month Day Year	
17. Transporter 1 Acknowledgement of Receipt of Materials		Printed/Typed Name		Signature	
18. Transporter 2 Acknowledgement of Receipt of Materials		Printed/Typed Name		Signature	
19. Discrepancy Indication Space					
20. Facility Owner or Operator: Certification of receipt of hazardous materials covered by this manifest except as noted in Item 19.		Printed/Typed Name		Signature	
				Month Day Year	

EPA Form 8700-22 (Rev. 9-88) Previous editions are obsolete.

The following statement must be included with each Uniform Hazardous Waste Manifest, either on the form, in the instructions to the form, or accompanying the form:

Public reporting burden for this collection of information is estimated to average: 37 minutes for generators, 15 minutes for transporters, and 10 minutes for treatment, storage and disposal facilities. This includes time for reviewing instructions, gathering data, and completing and reviewing the

form. Send comments regarding the burden estimate, including suggestions for reducing this burden, to: Chief, Information Policy Branch, PM-223, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

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GENERATORS

Item 1. Generator's U.S. EPA ID Number— Manifest Document Number

Enter the generator's U.S. EPA twelve digit identification number and the unique five digit number assigned to this Manifest (e.g., 00001) by the generator.

Item 2. Page 1 of —

Enter the total number of pages used to complete this Manifest, i.e., the first page (EPA Form 8700-22) plus the number of Continuation Sheets (EPA Form 8700-22A), if any.

Item 3. Generator's Name and Mailing Address

Enter the name and mailing address of the generator. The address should be the location that will manage the returned Manifest forms.

Item 4. Generator's Phone Number

Enter a telephone number where an authorized agent of the generator may be reached in the event of an emergency.

Item 5. Transporter 1 Company Name

Enter the company name of the first transporter who will transport the waste.

Item 6. U.S. EPA ID Number

Enter the U.S. EPA twelve digit identification number of the first transporter identified in item 5.

Item 7. Transporter 2 Company Name

If applicable, enter the company name of the second transporter who will transport the waste. If more than two transporters are used to transport the waste, use a Continuation Sheet(s) (EPA Form 8700-22A) and list the transporters in the order they will be transporting the waste.

Item 8. U.S. EPA ID Number

If applicable, enter the U.S. EPA twelve digit identification number of the second transporter identified in item 7.

NOTE: If more than two transporters are used, enter each additional transporter's company name and U.S. EPA twelve digit identification number in items 24-27 on the Continuation Sheet (EPA Form 8700-22A). Each Continuation Sheet has space to record two additional transporters. Every transporter used between the generator and the designated facility must be listed.

Item 9. Designated Facility Name and Site Address

Enter the company name and site address of the facility designated to receive the waste listed on this Manifest. The address

must be the site address, which may differ from the company mailing address.

Item 10. U.S. EPA ID Number

Enter the U.S. EPA twelve digit identification number of the designated facility identified in item 9.

Item 11. U.S. DOT Description [Including Proper Shipping Name, Hazard Class, and ID Number (UN/NA)]

Enter the U.S. DOT Proper Shipping Name, Hazard Class, and ID Number (UN/NA) for each waste as identified in 49 CFR 171 through 177.

NOTE: If additional space is needed for waste descriptions, enter these additional descriptions in item 28 on the Continuation Sheet (EPA Form 8700-22A).

Item 12. Containers (No. and Type)

Enter the number of containers for each waste and the appropriate abbreviation from Table I (below) for the type of container.

TABLE I—TYPES OF CONTAINERS

DM=Metal drums, barrels, kegs
DW=Wooden drums, barrels, kegs
DF=Fiberboard or plastic drums, barrels, kegs
TP=Tanks portable
TT=Cargo tanks (tank trucks)
TC=Tank cars
DT=Dump truck
CY=Cylinders
CM=Metal boxes, cartons, cases (including roll-offs)
CW=Wooden boxes, cartons, cases
CF=Fiber or plastic boxes, cartons, cases
BA=Burlap, cloth, paper or plastic bags

Item 13. Total Quantity

Enter the total quantity of waste described on each line.

Item 14. Unit (Wt./Vol.)

Enter the appropriate abbreviation from Table II (below) for the unit of measure.

TABLE II—UNITS OF MEASURE

G=Gallons (liquids only)
P=Pounds
T=Tons (2000 lbs)
Y=Cubic yards
L=Liters (liquids only)
K=Kilograms
M=Metric tons (1000 kg)
N=Cubic meters

Item 15. Special Handling Instructions and Additional Information

Generators may use this space to indicate special transportation, treatment, storage,

or disposal information or Bill of Lading information. States may not require additional, new, or different information in this space. For international shipments, generators must enter in this space the point of departure (City and State) for those shipments destined for treatment, storage, or disposal outside the jurisdiction of the United States.

Item 16. Generator's Certification

The generator must read, sign (by hand), and date the certification statement. If a mode *other than* highway is used, the word "highway" should be lined out and the appropriate mode (rail, water, or air) inserted in the space below. If another mode *in addition to* the highway mode is used, enter the appropriate additional mode (e.g., *and rail*) in the space below.

Primary exporters shipping hazardous wastes to a facility located outside of the United States must add to the end of the first sentence of the certification the following words "and conforms to the terms of the EPA Acknowledgment of Consent to the shipment."

In signing the waste minimization certification statement, those generators who have not been exempted by statute or regulation from the duty to make a waste minimization certification under section 3002(b) of RCRA are also certifying that they have complied with the waste minimization requirements.

Generators may preprint the words, "On behalf of" in the signature block or may hand write this statement in the signature block prior to signing the generator certifications.

NOTE: All of the above information *except* the handwritten signature required in item 16 may be preprinted.

* * * * *

TRANSPORTERS

Item 17. Transporter 1 Acknowledgement of Receipt of Materials

Enter the name of the person accepting the waste on behalf of the first transporter. That person must acknowledge acceptance of the waste described on the Manifest by signing and entering the date of receipt.

Item 18. Transporter 2 Acknowledgement of Receipt of Materials

Enter, if applicable, the name of the person accepting the waste on behalf of the second transporter. That person must acknowledge acceptance of the waste described on the Manifest by signing and entering the date of receipt.

NOTE: International Shipments—Transporter Responsibilities.

Exports—Transporters must sign and enter the date the waste left the United States in item 15 of Form 8700-22.

Imports—Shipments of hazardous waste regulated by RCRA and transported into the United States from another country must upon entry be accompanied by the U.S. EPA Uniform Hazardous Waste Manifest. Transporters who transport hazardous waste into the United States from another country are responsible for completing the Manifest (40 CFR 263.10(c)(1)).

OWNERS AND OPERATORS OF TREATMENT, STORAGE, OR DISPOSAL FACILITIES

Item 19. Discrepancy Indication Space

The authorized representative of the designated (or alternate) facility's owner or operator must note in this space any significant discrepancy between the waste described on the Manifest and the waste actually received at the facility.

Owners and operators of facilities located in unauthorized States (i.e., the U.S. EPA administers the hazardous waste management program) who cannot resolve significant discrepancies within 15 days of receiving the waste must submit to their Regional Administrator (see list below) a letter with a copy of the Manifest at issue describing the discrepancy and attempts to reconcile it (40 CFR 264.72 and 265.72).

Owners and operators of facilities located in authorized States (i.e., those States that have received authorization from the U.S. EPA to administer the hazardous waste program) should contact their State agency for information on State Discrepancy Report requirements.

EPA REGIONAL ADMINISTRATORS

Regional Administrator, U.S. EPA Region I, J.F. Kennedy Fed. Bldg., Boston, MA 02203

Regional Administrator, U.S. EPA Region II, 26 Federal Plaza, New York, NY 10278

Regional Administrator, U.S. EPA Region III, 6th and Walnut Sts., Philadelphia, PA 19106

Regional Administrator, U.S. EPA Region IV, 345 Courtland St., NE., Atlanta, GA 30365

Regional Administrator, U.S. EPA Region V, 77 West Jackson Blvd., Chicago, IL 60604

Regional Administrator, U.S. EPA Region VI, 1201 Elm Street, Dallas, TX 75270

Regional Administrator, U.S. EPA Region VII, 324 East 11th Street, Kansas City, MO 64106

Regional Administrator, U.S. EPA Region VIII, 1860 Lincoln Street, Denver, CO 80295

Regional Administrator, U.S. EPA Region IX, 215 Freemont Street, San Francisco, CA 94105

Regional Administrator, U.S. EPA Region X, 1200 Sixth Avenue, Seattle, WA 98101

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Item 20. Facility Owner or Operator: Certification of Receipt of Hazardous Materials Covered by This Manifest Except as Noted in Item 19

Print or type the name of the person accepting the waste on behalf of the owner or operator of the facility. That person must acknowledge acceptance of the waste described on the Manifest by signing and entering the date of receipt.

Items A-K are not required by Federal regulations for intra- or interstate transportation. However, States may require generators and owners or operators of treatment, storage, or disposal facilities to complete some or all of items A-K as part of State manifest reporting requirements. Generators and owners and operators of treatment, storage, or disposal facilities are advised to contact State officials for guidance on completing the shaded areas of the Manifest.

Please print or type. (Form designed for use on elite (12-pitch) typewriter.)

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UNIFORM HAZARDOUS WASTE MANIFEST (Continuation Sheet)		21. Generator's US EPA ID No.	Manifest Document No.	22. Page	Information in the shaded areas is not required by Federal law	
23. Generator's Name				L. State Manifest Document Number		
				M. State Generator's ID		
24. Transporter Company Name		25. US EPA ID Number		N. State Transporter's ID		
				O. Transporter's Phone		
26. Transporter Company Name		27. US EPA ID Number		P. State Transporter's ID		
				Q. Transporter's Phone		
G E N E R A T O R	28. US DOT Description (Including Proper Shipping Name, Hazard Class, and ID Number)		29. Containers No.	30. Total Quantity	31. Unit Wh/Yd	R. Waste No.
	a.					
	b.					
	c.					
	d.					
	e.					
	f.					
	g.					
	h.					
	i.					
	S. Additional Descriptions for Materials Listed Above				T. Handling Codes for Wastes Listed Above	
32. Special Handling Instructions and Additional Information						
T R A N S P O R T E R	33. Transporter Acknowledgement of Receipt of Materials				Date	
	Printed/Typed Name		Signature		Month Day Year	
F A C I L I T Y	34. Transporter Acknowledgement of Receipt of Materials				Date	
	Printed/Typed Name		Signature		Month Day Year	
35. Discrepancy Indication Space						

EPA Form 8700-22A (Rev. 9-88) Previous edition is obsolete.

INSTRUCTIONS—CONTINUATION SHEET, U.S.
EPA FORM 8700-22A

Read all instructions before completing this form.

This form has been designed for use on a 12-pitch (elite) typewriter; a firm point pen may also be used—press down hard.

This form must be used as a continuation sheet to U.S. EPA Form 8700-22 if:

- More than two transporters are to be used to transport the waste;
- More space is required for the U.S. DOT description and related information in Item 11 of U.S. EPA Form 8700-22.

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Federal regulations require generators and transporters of hazardous waste and owners or operators of hazardous waste treatment, storage, or disposal facilities to use the uniform hazardous waste manifest (EPA Form 8700-22) and, if necessary, this continuation sheet (EPA Form 8700-22A) for both inter- and intrastate transportation.

GENERATORS

Item 21. Generator's U.S. EPA ID Number—Manifest Document Number

Enter the generator's U.S. EPA twelve digit identification number and the unique five digit number assigned to this Manifest (e.g., 00001) as it appears in item 1 on the first page of the Manifest.

Item 22. Page —

Enter the page number of this Continuation Sheet.

Item 23. Generator's Name

Enter the generator's name as it appears in item 3 on the first page of the Manifest.

Item 24. Transporter — Company Name

If additional transporters are used to transport the waste described on this Manifest, enter the company name of each additional transporter in the order in which they will transport the waste. Enter after the word "Transporter" the order of the transporter. For example, Transporter 3 Company Name. Each Continuation Sheet will record the names of two additional transporters.

Item 25. U.S. EPA ID Number

Enter the U.S. EPA twelve digit identification number of the transporter described in item 24.

Item 26. Transporter — Company Name

If additional transporters are used to transport the waste described on this Manifest, enter the company name of each additional transporter in the order in which they will transport the waste. Enter after the word "Transporter" the order of the transporter. For example, Transporter 4 Company Name. Each Continuation Sheet will record the names of two additional transporters.

Item 27. U.S. EPA ID Number

Enter the U.S. EPA twelve digit identification number of the transporter described in item 26.

Item 28. U.S. DOT Description Including Proper Shipping Name, Hazardous Class, and ID Number (UN/NA)

Refer to item 11.

Item 29. Containers (No. and Type)

Refer to item 12.

Item 30. Total Quantity

Refer to item 13.

Item 31. Unit (Wt./Vol.)

Refer to item 14.

Item 32. Special Handling Instructions

Generators may use this space to indicate special transportation, treatment, storage, or disposal information or Bill of Lading information. States are *not* authorized to require additional, new, or different information in this space.

* * * * *

TRANSPORTERS

Item 33. Transporter — Acknowledgement of Receipt of Materials

Enter the same number of the Transporter as identified in item 24. Enter also the name of the person accepting the waste on behalf of the Transporter (Company Name) identified in item 24. That person must acknowledge acceptance of the waste described on the Manifest by signing and entering the date of receipt.

Item 34. Transporter — Acknowledgement of Receipt of Materials

Enter the same number as identified in item 26. Enter also the name of the person accepting the waste on behalf of the Transporter (Company Name) identified in item 26. That person must acknowledge acceptance of the waste described on the Manifest by signing and entering the date of receipt.

* * * * *

OWNERS AND OPERATORS OF TREATMENT, STORAGE, OR DISPOSAL FACILITIES

Item 35. Discrepancy Indication Space

Refer to item 19.

Items L-R are not required by Federal regulations for intra- or interstate transportation. However, States may require generators and owners or operators of treatment, storage, or disposal facilities to complete some or all of items L-R as part of State manifest reporting requirements. Generators

and owners and operators of treatment, storage, or disposal facilities are advised to contact State officials for guidance on completing the shaded areas of the manifest.

[49 FR 10501, Mar. 20, 1984, as amended at 51 FR 28685, Aug. 8, 1986; 51 FR 35192, Oct. 1, 1986; 53 FR 45091, Nov. 8, 1988; 62 FR 1834, Jan. 14, 1997]

PART 263—STANDARDS APPLICABLE TO TRANSPORTERS OF HAZARDOUS WASTE

Subpart A—General

Sec.

263.10 Scope.

263.11 EPA identification number.

263.12 Transfer facility requirements.

Subpart B—Compliance With the Manifest System and Recordkeeping

263.20 The manifest system.

263.21 Compliance with the manifest.

263.22 Recordkeeping.

Subpart C—Hazardous Waste Discharges

263.30 Immediate action.

263.31 Discharge clean up.

AUTHORITY: 42 U.S.C. 6906, 6912, 6922–6925, 6937, and 6938.

SOURCE: 45 FR 33151, May 19, 1980, unless otherwise noted.

Subpart A—General

§ 263.10 Scope.

(a) These regulations establish standards which apply to persons transporting hazardous waste within the United States if the transportation requires a manifest under 40 CFR part 262.

NOTE: The regulations set forth in parts 262 and 263 establish the responsibilities of generators and transporters of hazardous waste in the handling, transportation, and management of that waste. In these regulations, EPA has expressly adopted certain regulations of the Department of Transportation (DOT) governing the transportation of hazardous materials. These regulations concern, among other things, labeling, marking, placarding, using proper containers, and reporting discharges. EPA has expressly adopted these regulations in order to satisfy its statutory obligation to promulgate regulations which are necessary to protect human health and the environment in the transportation of hazardous waste. EPA's adoption of

these DOT regulations ensures consistency with the requirements of DOT and thus avoids the establishment of duplicative or conflicting requirements with respect to these matters. These EPA regulations which apply to both interstate and intrastate transportation of hazardous waste are enforceable by EPA.

DOT has revised its hazardous materials transportation regulations in order to encompass the transportation of hazardous waste and to regulate intrastate, as well as interstate, transportation of hazardous waste. Transporters of hazardous waste are cautioned that DOT's regulations are fully applicable to their activities and enforceable by DOT. These DOT regulations are codified in title 49, Code of Federal Regulations, subchapter C.

EPA and DOT worked together to develop standards for transporters of hazardous waste in order to avoid conflicting requirements. Except for transporters of bulk shipments of hazardous waste by water, a transporter who meets all applicable requirements of 49 CFR parts 171 through 179 and the requirements of 40 CFR 263.11 and 263.31 will be deemed in compliance with this part. Regardless of DOT's action, EPA retains its authority to enforce these regulations.

(b) These regulations do not apply to on-site transportation of hazardous waste by generators or by owners or operators of permitted hazardous waste management facilities.

(c) A transporter of hazardous waste must also comply with 40 CFR part 262, Standards Applicable to Generators of Hazardous Waste, if he:

(1) Transports hazardous waste into the United States from abroad; or

(2) Mixes hazardous wastes of different DOT shipping descriptions by placing them into a single container.

(d) A transporter of hazardous waste subject to the Federal manifesting requirements of 40 CFR part 262, or subject to the waste management standards of 40 CFR part 273, or subject to State requirements analogous to 40 CFR part 273, that is being imported from or exported to any of the countries listed in 40 CFR 262.58(a)(1) for purposes of recovery is subject to this Subpart and to all other relevant requirements of subpart H of 40 CFR part 262, including, but not limited to, 40 CFR 262.84 for tracking documents.

(e) The regulations in this part do not apply to transportation during an explosives or munitions emergency response, conducted in accordance with